

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2019

Coram

THE HON'BLE MRS. JUSTICE BHAVANI SUBBAROYAN

Tr.C.M.P.No.777 of 2019

and

C.M.P.No.21659 of 2019

S.Amudha priya

...Petitioner

Vs.

A.Vinoth

...Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Cr.P.C., to withdraw and transfer the petition in HMOP. No.205 of 2019, on the file of the Sub court, Tuticorin and tried along with FCOP No.241 of 2019 pending on the file of the Family court, Vellore.

For Petitioner : Mr.G.Poonkundran

For Respondent : Notice served - No appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the petitioner to withdraw and transfer the petition in HMOP. No.205 of 2019, on the file of the Sub Court, Tuticorin and tried along with FCOP No.241 of 2019 pending on the file of the Family Court, Vellore.

2. The respondent and the petitioner are husband and wife. The marriage between the parties was solemnized on 11.03.2018 at Kailash Mahal, Mani Nagar, Tuticorin as per Hindu rites and customs. But, on 30.06.2017, the petitioner and the respondent have got married earlier and on the same day, they have registered the marriage in S.No.402 of 2017, dated 30.06.2017 at Nilakottai, Dindugal District, which was suppressed by the parties to their family. On 20.07.2017, the petitioner left her parental house and started to join with the respondent. Out of the lawful wedlock, a male child viz., Mathimaran was born on 08.04.2019. After the marriage, the petitioner came to know that the respondent has not completed his graduation and he has no job. Subsequently, the respondent compelled the petitioner to go

for a job. When the petitioner refused to do the same, the respondent started to abused her with filthy language and beat her often. The petitioner and the respondent were belonging to different communities. So, the respondent forced the petitioner to take non-vegetarian items. Further the petitioner alleged that the respondent is a habitual drunkard and chain smoker. When the petitioner's father asked about the act of the respondent, the petitioner demanded him dowry. Thereafter, the parents of the petitioner gifted 10 sovereigns of gold to the respondent. However, the respondent has not changed his attitude. Therefore, the petitioner has filed a petition for divorce in FCOP. No.241 of 2019 on the file of the Family Court, Vellore, on the ground of cruelty. As a counter blast, the respondent filed a petition in HMOP. No.205 of 2019 on the file of the Sub court, Tuticorin for restitution of conjugal rights. The petitioner is a resident of Vellore. Hence, the petitioner seeks transfer of the case in HMOP. No.205 of 2019 pending on the file of the Sub Court, Tuticorin to the file of the Family Court, Vellore.

3. The learned counsel for the petitioner would submit that the petitioner is now residing at Vellore along with her aged parents. The petitioner is unemployed and the child, aged about 4 months, is under the care and custody of the petitioner. She is depending upon her parents to meet out her day-to-day expenses and she has to take care her child. Therefore, it will be very difficult for her to travel along with an infant from Vellore to Tuticorin for attending the Court proceedings. Hence, the petitioner seeks transfer of the case from Tuticorin to Vellore.

4. This Court ordered notice to the respondent through court as well as privately. The same was served on him. However, the petitioner is not appeared either in person or through his counsel before this Court. Hence, this Court is inclined to dispose of the matter on merits and in accordance with law.

5. Heard the learned counsel for the petitioner and perused the materials available on record. None appeared on behalf of the respondent.

6. It could be seen from the records that the petitioner and the respondent are husband and wife. There was a misunderstanding between them. Due to which, they were living separately and they have filed two different petitions at two different places.

7. Considering the convenience of the petitioner, in order to avoid conflicting judgments and none appears on behalf of the respondent, this Court is inclined to transfer the petition from Tuticorin to Vellore.

8. Accordingly, the petition HMOP. No.205 of 2019 pending on the file of the Sub Court, Tuticorin is withdrawn and transferred to the file of the Family Court, Vellore, to be tried along with FCOP. No.241 of 2019.

9. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge, Tuticorin.
2. The Judge, Family Court, Vellore.

+1cc to Mr.G.Poonkundran, Advocate Sr.No.96790

AKM/09.01.2020/3P-4C/

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