

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2019

Coram

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

Tr.C.M.P.No.779 of 2019

and

C.M.P.No.21789 of 2019

V.Thilagam

...Petitioner

Vs.

K.Venkatesan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Cr.P.C., to withdraw the case in HMOP. No.141 of 2018, on the file of the learned Principal Sub Judge, Tindivanam and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.S.Parthasarathy

For Respondent : Mr.N.Suriya Muthu

O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the petitioner seeking to withdraw the case in HMOP. No.141 of 2018, on the file of the learned Sub Judge, Tindivanam and transfer the same to the Family Court, Chennai.

2. The case of the petitioner is that the respondent and the petitioner are the husband and wife. The marriage between the parties was solemnized on 25.08.1999 at Siva Thirumana Mandapam, Marakkanam Pondy Road, Tindivanam. At the time of the marriage, the petitioner's parents have gifted about 26 sovereigns of jewels and bike. After the marriage, the petitioner was living in matrimonial home. In the lawful wedlock, two children namely Mohandass (17 years) and Nisha (9years) were born. The respondent is having the habit of drinking Alcohol. Due to which, the respondent used to pick up quarrel with the petitioner and he never maintained his wife and children. During the year 2002, the respondent beaten the petitioner and driven out of the matrimonial home for demanding money. The petitioner lodged a complaint before the All Women Police Station, Adyar. But the police officials pacified the

issue and the respondent has also promised to take care of the family. But he failed to do so. Again, on 06.08.2018, the respondent sent the petitioner from the matrimonial home and refused to take back. Therefore, the petitioner along with the children were constrained to live in her brother's house at Velacherry. The respondent is owning 5 Acres of land and doing agriculture and earning a sum of Rs.50,000/- per month. The petitioner is unemployed. Therefore, the petitioner has filed a maintenance case before the learned III Additional Family Court, Chennai in M.C.No.309 of 2016. As a counter blast, the respondent has filed a petition in HMOP. No.141 of 2018 before the learned Sub Judge, Tindivanam for restitution of conjugal rights. The petitioner/wife is a resident of Chennai. Hence, she seeks transfer of the case filed by the husband from the Sub Court, Tindivanam to Family Court, Chennai.

3. The learned counsel for the petitioner would submit that the the petitioner is residing in her brother's house at Chennai. The petitioner is struggling for her livelihood and education expenses of the children. The petitioner is having sufficient means. Despite having sufficient means, he neglected to maintain his wife and children. Hence the petitioner filed a maintenance case. Only to harass the petitioner, the respondent has filed a petition before the Sub Court at Tindivanam. It is very difficult for her to travel alone from Chennai to Tindivanam, which comes around 120 KMs. from Chennai to attend the court proceedings. Hence, the petitioner came this Court by way of this petition and seeks transfer of the case filed by the husband pending before the Sub Court, Tindivanam to the file of the Family Court, Chennai.

4. The learned counsel appearing for the respondent would submit that the respondent has denied all the allegations made by the petitioner and he has no serious objection to transfer the case to Family Court, Chennai.

5. Heard the learned counsel for the petitioner as well as the respondent and also perused the materials available on record.

6. It is seen from the records that the petitioner and the respondent are the husband and wife and due to the misunderstanding between them, they were living separately and the the petitioner has filed maintenance case before the Family Court, Chennai and the respondent has filed a petition for restitution of conjugal rights before the Sub Court, Tindivanam, respectively.

7. Considering the convenience of the petitioner, in order to avoid conflicting judgments and the respondent has no objection, this Court is inclined to withdraw the case in HMOP. No.141 of 2018 on the file of the Sub Court, tindivanam and transfer the same to the file of the Family Court, Chennai, to try along with the case in M.C.No.309 of 2016.

8. Accordingly, HMOP. No.141 of 2018, on the file of the Sub Court, Tindivanam is withdrawn and transferred to the file of the Family Court, Chennai, to be tried along with M.c.No.309 of 2016.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sub Court, Tindivanam.
2. The Family Court, chennai.

+lcc to Mr.S.Parthasarathy, Advocate SR.99254

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SSV(CO)
CB(09/01/2020)