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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2019

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.788 of 2019 and
C.M.P.No.21983 of 2019

Kavitha

... Petitioner

Vs.

Vijayakumar

... Respondent

Prayer:

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the H.M.O.P.No.63 of 2019, pending on the file of learned II Additional Subordinate Judge, Villupuram to Family Court, Chennai.

For Petitioner : Mr.R.Dhanasekar

For Respondent : Mr.K.Gangadaran

O R D E R

The petitioner herein, who is the wife of the respondent, has filed the present petition seeking to transfer H.M.O.P.No.63 of 2019 pending on the file of learned II Additional Subordinate Judge, Villupuram to the Family Court, Chennai.

2. The case of the petitioner is that she got married to the respondent on 04.09.2017 at Sreeparvatham Gurusamy KPN Thirumana Mandapam, East Street, Thirukovilur, as per Hindu Rites and Customs. The appellant and the respondent are working in Astrazeneca India P. Ltd., and subsequent to the marriage they had set up a matrimonial home at Velacherry, Adambakkam, Chennai. Initially, they were living in a happy manner and later on, the respondent started to pickup quarrel with her without any reason. Earlier, they were working at Prodapt Solutions Pvt., Ltd., prior to the engagement.



3. It is the further case of the petitioner that the petitioner was obedient and dutiful wife with the respondent and also behaved good with respondent's parents. Further, from the date of marriage, the respondent slowly started showing the true colour and regularly beaten, and abused the petitioner with filthy language and doubted her fidelity and necked out the petitioner from the matrimonial home stating various false and frivolous allegations. Thereafter, the respondent has not taken any steps to bring the petitioner back to the matrimonial home and whenever the petitioner attempted to speak to the respondent, he refused to speak. Therefore, the petitioner had lodged a complaint before the police station, Thirukovilur, on enquiry, the respondent revealed that the petitioner is not willing to reunite with the respondent. The respondent had returned back 16 sovereigns of jewels and sreedhana articles and agreed to return back the money to the tune of Rs.19,00,000/-. In the mean time, the respondent filed a petition for divorce by suppressing all the real facts before the learned II Additional Subordinate Judge, Villupuram.

4. According to the petitioner, the respondent is residing at Chennai and only with a view to harass the petitioner, he has filed a said divorce petition at Villupuram. The petitioner, being a woman finds it very difficult to travel for more than 170 Kms and appear before the II Additional Subordinate Court, Villupuram for each and every hearing. Therefore, the petitioner has filed the present petition seeking transfer.

5. Per contra, a counter affidavit is filed by the respondent reiterating the stand taken in the H.M.O.P and avers that the petitioner was in love with some one earlier to the marriage and still she is continuing the same. Further, the petitioner is not ready to stay with the respondent and when the petitioner was pregnant, the same was aborted purposely by the petitioner's parents. The respondent further averred that the petitioner is trying to draw the money from him with fake allegations like dowry Harassment. Hence he states that the transferring the case to Family Court, Chennai might give the petitioner more advantage, therefore, he opposes the transfer petition.

6. Heard the learned counsel on either side and perused the documents placed on record.

7. It is seen from the cause title that the petitioner / wife is presently staying at No.3/294, Sadagopan Street,



Karapakkam, Chennai and the respondent / husband is presently staying at Plot No.742, Swetha Emerald Apartment, Ram Nagar, 7th Main Road, Madipakkam, Chennai and they had mentioned their permanent address as Vellore and Villupuram respectively. Further, taking note of the fact that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another], this Court is inclined to allow this petition seeking for transfer.

8. Accordingly, the H.M.O.P.No.63 of 2019 pending on the file of II Additional Subordinate Court, Villupuram is withdrawn and the same is transferred to the Family Court, Chennai. The Registry of the II Additional Subordinate Court, Villupuram is directed to transmit the entire case papers to the Family Court, Chennai within a period of four weeks from the date of receipt of copy of this order.

With the above observation, the present Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The II Additional Subordinate Court, Villupuram

2. The Family Court, Chennai

+1cc to Mr.R.Dhanasekar, Advocate sr.99389

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