

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.811 of 2019  
and  
C.M.P.No.22577 of 2019

V.Rekha

... Petitioner

Vs.

M.Yuvaraj

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the HMOP.No.2866 of 2019 on the file of the III<sup>rd</sup> Additional Family Court, Chennai and transfer the same to the file of the Family Court, Villupuram to be tried along with H.M.O.P.No.SR934 of 2019.

For Petitioner : Mr.C.Gunasekaran

For Respondent : Mr.C.Ganesh pandian for  
Mrs.A.Shabanal

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the HMOP.No.2866 of 2019 on the file of the III<sup>rd</sup> Additional Family Court, Chennai and transfer the same to the file of the Family Court, Villupuram to be tried along with H.M.O.P.No.SR934 of 2019.

2. The case of the petitioner is that the petitioner got marriage with the respondent that has been registered on 17.04.2013 at No.30/169 A, G.A.Road Old Washermenpet, Chennai - 600 021. Again on 13.12.2013, both the parents arranged the marriage at Arulmigu Pachayamman Tempel, Kanniyakovil, Pondicherry as per the Hindu Rites and Customs. After marriage, they were living at Villupuram and the respondent was working as a Senior Manager in Tamil Nadu Tourism Development Corporation. The parents of the petitioner had given 85 sovereign of gold, Rs.2,50,000/- of cash amount and 5 kgs of Silver as Sridhana. The parents of the respondent harnessed the petitioner to bring the same for weighing purpose and she has also given all the Sridhana articles. But the respondent's parents did not return the same to her inspite of repeated requests. Thereafter, when she was staying at Kodaikanal at Government quarters, she became pregnant. At that time, the respondent has been transferred to

Ooty on 11.06.2015 hence she was living with the parents of the respondent. They tortured the petitioner by directing her to do more household work instead of taking care.

3. On 23.11.2015, a female child namely SaiRakshitha was born at Villupuram. The respondent's parents had compelled the petitioner to deposit a sum of Rs.2,35,000/- as a fixed deposit for the future welfare of her female child and the same has also been deposited by her parents. But the respondent spent the said amount without informing the petitioner. Thereafter on 18.03.2018, the petitioner had sent back to her parents house and the respondent quarreled with her and also blamed the petitioner that due to her torture and harassment, they have abused her in filthy language and dragged her out of the house. On 04.11.2018, when the respondent was transferred to Ulundhurpettai, Tamil Nadu Hotel, she has to live with the respondent's family again.

4. On 04.07.2019, he had transferred to Rameshwaram Tamil Nadu Hotel. On 13.07.2019, the respondent did not return home from office, she had given a complaint to the Rameshwaram Police Station. On enquiry, it was found that the respondent is staying in the Government quarters with his family and when she went to the said quarters, she was shocked that the respondent was having illegal affair with one Kavitha and living with her daughter in the quarters. It was informed to the respondent's parents on 16.08.2019. But they have not taken it as a serious issue and stated that they have no right to question the respondent regarding the said act of the respondent.

5. Immediately, the respondent with an ulterior motive has filed a petition for divorce in HMOP.No.2866 of 2019 before the III Additional Family Court, Chennai on the ground of cruelty and desertion by the wife. Thereafter, she had filed a petition in HMOP NO.SR 934 of 2019 before the Family Court, Villupuram for restitution of conjugal rights.

6. The petitioner is now staying along with her 3 years old daughter in her parents house at Villupuram and hence she could not attend the III Additional Family Court, Chennai. She is also suffered physical as well as mental agony by the respondent and hence it will not be advisable by the Doctor to travel from Villupuram to Chennai often. Further, since the respondent husband is residing at Madurai at present, she is seeking to withdraw the petition in HMOP.No.2866 of 2019 on the file of III Additional Family Court, Chennai and transfer the same to the file of the Family Court, Villupuram to be tried along with H.M.O.P.No.SR934 of 2019.

7. The respondent had filed a counter, wherein it has been stated that at the outset denies all the allegations in the affidavit and submits that the averment of offering 85 sovereign of gold and Rs.2,50,000/- and 5kgs of Silver is

stoutly denied as false and all the allegations are false and cooked up by the petitioner. He further stated that the petitioner had filed a petition in CrI.O.P(MD).No.11526 of 2019 and the same was voluntarily withdrawn by her and hence it was closed by this Court. The allegation that he was having illegal relationship with one Kavitha is false and the same has been stated only in order to insult the dignity and defame the respondent in public and thereby causing mental agony to the respondent. The said issue was published in news paper also and hence the respondent had issued a defamation notice on 07.08.2019 to the alleged newspaper to initiate legal proceedings. The respondent submits that presently he is staying at Madurai due to the complaint given by his wife/petitioner before various authorities and hence he has been kept under suspension and departmental proceedings are going on. The wife has caused lots of mental agony to him and also stated that no cause of action to file the transfer CMP. Hence, the respondent requests this Court this Court not to allow this petition. Further, the petition at Family Court, Villupuram filed by the wife has not been numbered yet and it is only in SR stage and the respondent is ready to bare the expenses of travel, boarding, lodging of the petitioner to attend the case from Villupuram to Chennai.

8. On a perusal of the material on record, it may be seen that both the petitions have leveled the allegations against each other and the parties have initiated criminal proceedings also. Since the petitioner has 3 year old child, she feel difficult to travel from Villupuram to Chennai Court without her parents and as such she stated that no one is ready to accompany her to attend the said Court at Chennai. Regarding the averment that he has been kept under suspension and other allegations against each other can be dealt by them in appropriate forum not before this Court.

9. The submission of the counsel for the respondent that he is ready to bear the expenses, cannot be accepted by this Court. It is well settled law 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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case from III<sup>rd</sup> Additional Family Court, Chennai the Family Court, Villupuram.

10. This Court is of the opinion that since both the cases are interconnected and Joint trial would meet ends of justice and also avoid conflicting orders. Considering the facts and circumstances of the case, this Court is inclined to allow this petition to withdraw the petition in HMOP.No.2866

of 2019 on the file of the in III<sup>rd</sup> Additional Family Court, Chennai and transfer the same to the file of the Family Court, Villupuram to be tried along with H.M.O.P.No.SR934 of 2019.

11. Accordingly, the respondent is directed to withdraw the petition in HMOP.No.2866 of 2019 on the file of the in III<sup>rd</sup> Additional Family Court, Chennai and transfer the same to the file of the Family Court, Villupuram to be tried along with HMOP No.SR934 of 2019.

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

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vum

To

1. The III Additional Judge/  
Family Court,  
Chennai.

2. The Judge,  
Family Court,  
Villupuram.

+1cc to Mr.C.Gunasekaran, Advocate Sr.93513  
+1cc to Mr.C.Ganesh Pandian, Advocate Sr.93496

TR C.M.P. No.811 of 2019  
and  
C.M.P.No.22577 of 2019

mp[co]  
srg 05/12/2019