

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.839 of 2019
and C.M.P.No.23104 of 2019

Priyanka

... Petitioner/Respondent

Vs.

S.Prabhakaran

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the I.A.No.1 of 2019 in unnumbered MOP No. of 2019 on the file of the learned Family Judge, Pondicherry and transfer the same to the Sub Court, Tindivanam.

For Petitioner : Mr.E.Iyappan

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking the relief to withdraw the I.A.No.1 of 2019 in unnumbered MOP No. of 2019 from the file of the Family Court, Pondicherry and to transfer the same to the Sub Court, Tindivanam.

2. The respondent and petitioner are husband and wife. The petitioner herein has filed Tr.CMP.No.839 of 2019 to withdraw the I.A.No.1 of 2019 in unnumbered MOP.No. of 2019, which has been filed before the Family Court, Pondicherry and transfer the same to the Sub Court, Tindivanam. The petitioner herein got married with the respondent on 19.11.2018 at Arulmigu Devanatha Swamy Thirukoil, Thiruvandipuram, Cuddalore District, as per Hindu Rites and customs and the same was registered on the same day. The marriage expenses were born by the petitioner's family as per the demands of the respondent's family and they have taken hand loan with higher rate of interest from various persons to meet the above said expenses. Only for two days, she had lived with the respondent along with his family members.

2.1. Subsequently, the family members of the respondent have started to quarrel with the petitioner for every petty and unjust reasons. Further, the respondent committed physical, verbal, emotional and economic violence against the petitioner. As per the advice of respondent's mother, he demanded a dowry amount of Rs.2,00,000/- from the petitioner's mother. Since they were not ready to pay the said amount due to economic reasons, the respondent and his parents threatened the petitioner that they will chase the petitioner out and marry another girl from wealthy family for the sake of dowry. He has also assaulted the petitioner with his chapels asking for more dowry. The respondent's mother has forced the petitioner for getting hand loan with higher rate of interest from various persons. On 19.01.2019, her mother-in-law and father-in-law both of them demanded plot from her parents worth about 15 lakhs, as her birthday gift and the same was denied by the petitioner's parents and hence, the respondent and his parents had attacked the petitioner due to which, she was admitted in the Rajiv Gandhi Government Medical College and Research Institute, Puducherry. At that time of taking treatment, the respondent never visited her in the hospital. After discharging from the hospital, the petitioner went to her parents home and lived with them. Immediately, she gave a police complaint before All Women Police Station, Villiyanur, Pondicherry and the same is pending.

2.2. Supressing all the truth, the respondent has filed an I.A.No.1 of 2019 in unnumbered MOP No. of 2019 on the file of Family Court, Pondicherry and sought for leave to present a petition for divorce, before the expiration of one year from the date of Marriage i.e., 19.11.2018.

3. Today, when the petition is taken up for admission, the learned counsel appearing for the petitioner submitted that the petitioner is staying with her ailing parents and she is the elder person, who has to take care of her mother. Being a lady, she finds it very difficult to go and attend the hearing of the above said MOP and she is not able to bear the expenses of the same. Further, the learned counsel submitted that if the respondent case is taken up before the Family Court, Pondicherry, it will be difficult for her and she would be prejudiced. Hence, she sought a interim stay and pass an order of withdrawal of I.A.No.1 of 2019 in unnumbered MOP.No. of 2019 from the file of the Family Court, Pondicherry.

4. Per contra, the learned counsel for the respondent submitted that the petitioner herein has not lived happily with the respondent/ husband for a single day and would always nag him and threatened him to commit suicide. The petitioner herein

is always wanted money and used to nag him for pomp and glory. She has not taken care of her husband and has shown no attachment towards him and always remained aloof and avoid all intimacy with him. The petitioner would change way of life in due course of time and they can never develop an intimacy in few days, but the petitioner herein has neglected the respondent. He is unable to cope up with these circumstances and traumatized due to the said act of the petitioner herein and the marriage has been irretrievably broken down and there is no scope for re-union between the petitioner and the respondent. Hence, he sought for leave of the learned Family Judge Pondichery by filling I.A.No.1 of 2019 on 02.02.2019 and seeks to dismiss this transfer petition.

5. It is well settled law that whenever, the transfer application is filed in matrimonial dispute, 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].

6. Considering the facts and circumstances of the case and taking note of the aforesaid Judgments laid down by the Hon'ble Supreme Court of India and as per Section 24(1)(a) of CPC, this Court is inclined to consider this petition and accordingly, the Tr.CMP.No.839 of 2019 is allowed.

7. In the result, the I.A.No.1 of 2019 in unnumbered M.O.P.No. of 2019 is withdraw from the file of Family Court, Pondicherry and transferred to the Sub Court, Tindivanam. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vkr

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To

1. The Judge
The Family Court, Pondicherry.
2. The Sub court, Tindivanam.

+1 cc to Mr.E.Iyyappan Advocate sr91221

TR C.M.P. No.839 of 2019
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