IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.22900 of 2018

K.Deepak ... Petitioner

Vs.

1.K.Surekha
2.Sri Deekshika
(The 2nd respondent being Minor represented by her mother and next friend the 1st respondent)

...Respondents

PRAYER: Criminal Original Petition filed under Section 407 of Cr.P.C, praying to withdraw and transfer M.C.No.464 of 2017 pending on the file of the III Additional Family Court, Chennai to the Family Court, Chengalpet.

For Petitioner : Mr.P.Sam Japa Singh

For Respondents : M/s.S.S.Jothivani for R1 and R2

O R D E R

This Criminal Original Petition has been filed seeking to transfer the proceedings in M.C.No.464 of 2017, pending on the file of the III Additional Family Court, Chennai to the file of the Family Court, Chengalpet.

2. This transfer petition has been filed mainly on the ground that the respondent does not have a residence at Chennai and she is a resident of Thoraipakkam, Kancheepuram District. Therefore, the petitioner would contend that the III Additional Family Court, Chennai, will not have the jurisdiction to entertain the petition filed by the respondent filed for maintenance, since not even a part of cause of action has arisen within the jurisdiction of the III Additional Family Court, Chennai.

3. The learned counsel for the respondent would submit that F.C.O.P.No.140 of 2017 was pending before the Family Court,

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Chengalpet and the same was filed by the petitioner seeking for divorce on the ground of cruelty. This Court by an order dated 05.02.2018, had withdrawn the petition in F.C.O.P.No.140 of 2017 from the file of the Family Court, Chengalpet, and transfered the same to the file of the III Additional Family Court, Chennai. In view of this development, the learned counsel for the respondent would submit that the maintenance case, which is now pending on the file of the same Court need not be transferred to Chengalpet.

4. In view of the fact that the divorce petition filed by the petitioner has already been transferred to the file of the III Additional Family Court, Chennai, no useful purpose will be served by transferring the M.C.No.464 of 2017 to Chengalpet. This maintenance case petition is also presently pending before the III Additional Family Court, Chennai. Therefore, both the cases can be heard by the same Court as the parties are same.

5. In view of the above, this Court is of the considered view that no ground has been made out by the petitioner for transfer and the petition in M.C.No.464 of 2017, can continue to be prosecuted before the III Additional Family Court, Chennai, along with H.M.O.P.No.1078 of 2018.

6. In the result, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To
1.The III Additional Family Court,
Chennai.

2.The Judge, Family Court,
Chengalpet.
+1 cc to Mr.P.Sam Japa Singh, Advocate Sr.No.821

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