

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 13.12.2018

JUDGMENT PRONOUNCED ON : 04.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP.No.744 of 2018
and C.M.P.No.18147 of 2018

Mrs.Keerthana Paul

Petitioner

Vs

Alfred Samuel

Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of the Civil Procedure, to withdraw the I.D.O.P.No.84 of 2018 pending on the file of the learned Family Court Judge, Chengalpattu, and transfer the same to the Principal Family Court at Chennai.

For Petitioner : Mr.Lita Srinivasan

For Respondent : Mr.K.PremKumar

O R D E R

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of Civil Procedure Code, for the relief to withdraw the I.D.O.P.No.84 of 2018 pending on the file of the Family Court at Chengalpattu and transfer the same to the principal Family Court, at Chennai.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was held on 06.01.2017, as per the Christian rites and Customs. After the marriage, the petitioner was subjected to several acts of abuse. The respondent indulges in extra marital sexual activities, which acts have not been condoned by the petitioner. However, the petitioner left the marital home in August 2017 for delivery. Subsequently, on 01.11.2017 she gave birth to a female child and returned back to marital home on 01.04.2018. Even, after gave birth to a female child the respondent continued his cruelty. He has never expressed any interest to the welfare of the petitioner or on his child. Resultantly, the respondent filed an application against the petitioner before the Family Court at Chengalpattu for the relief of restitution of conjugal

rights. The said application has been pending before the family Court, Chengalpattu in I.D.O.P.No.84 of 2018. In the said circumstances, the petitioner filed this application for the relief stated in the first paragraph of this order.

3. According to the petitioner, being a lady along with 11 month old girl child, it is very difficult for her to attend the Court proceedings in Chengalpattu. In otherwise, trying the petition in the Family Court, Chennai, is convenient for her.

4. By filing a counter, the respondent has contended that the petitioner only find fault with the respondent in each and every actions without any basis. The respondent has further contend that, only due to the ill-advice given by her parents, she issued an Advocate notice dated 08.05.2018, raising false and baseless allegations against the respondent. The petitioner used to lodge a repeated complaints against the respondent with the All Women Police Station. According to him, it is not difficult for the petitioner in attending the court at Chengalpattu. He prays for dismissal of the petition.

5. Today, I heard Mr.LitaSrinivasan, the learned counsel appearing for the petitioner and Mr.K.PremKumar, the learned counsel appearing for the respondent.

6. It is an admitted fact that as of now, the petitioner was residing with her parents along with 11 month old child. Further, the petitioner is not having any independent income for maintaining her child. She is depending upon her parents for her day to day expenses. In the said circumstances, even though, the petitioner and the respondent raised so many allegations against each other, the same has to be identified only at the time of trial.

7. The only issue raised in this petition is whether the petitioner projected sufficient cause for allowing this application. The sole reason stated by the petitioner is, that she was unable to attend the Court proceedings at Chengalpattu along with her 11 month old child. All are aware, that travelling from Chennai to Chengalpattu along with 11 month child is very difficult for anybody. Further, it is not established on the side of the respondent that the petitioner is a wealthy lady and she is having sufficient income for reaching Chengalpattu luxuriously.

8. In the said circumstances, it is relevant to refer to the Judgment of our Honourable Apex Court 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]. In the above Judgments, our Honourable Apex Court has

observed that the convenient of wife must be taken into account for considering these type of applications. In this case, as already discussed the case filed by the respondent is continued in the Family Court, Chengalpattu, it would leads much inconvenience to the petitioner in attending the Court proceedings. So, allowing this application is the proper remedy both to the petitioner and the respondent. Being a male member, it is not difficult for the respondent in attending the Court proceedings at Chennai.

9. Accordingly, in the light of the above discussion, this Transfer Civil Miscellaneous Petition is allowed. The petition in I.D.O.P.No.84 of 2018 is ordered to be withdrawn from the file of the Family Court, Chengalpattu, and shall stand transferred to the file of the Principal Family Court, Chennai. The learned Judge, Family Court, chengalpattu, is directed to transmit all the records pertaining to I.D.O.P.No.84 of 2018 to the file of the Principal Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Principal Judge, Family Court, Chennai, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS- VI)

//True copy//

Sub Assistant Registrar

sbn

To

1. The Learned Judge,
Family Court, Chengalpattu.

2. The learned Principal Judge,
Family Court, Chennai.

+1cc to M/s.L.Premkumar, Advocate SR.No.1599

+1cc to M/s.Lita srinivasan, Advocate SR.No.1277

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SPd (CO)
GMY (30/01/2019)