

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.25324 of 2014
and
Crl.M.P.No.1 of 2014

T.Gnanasekaran

... Petitioner

Versus

1. Anusuya

2. Dhansika,
Rep. by her mother and
1st respondent
Daughter of T.Gnanasekaran,
Mangudi Post,
Thiruthuraipoondi Taluk,
Thiruvarur District.

... Respondents

PRAYER:

Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure, to withdraw M.C.No.11 of 2014 pending on the file of the Judicial Magistrate, Thiruthuraipoondi and transfer the same to the file of Learned Judicial Magistrate, Pattukottai.

For Petitioner : M/s.Shivaprakash for
M/s.P.T.Rama Devi

For Respondents: Mr.E.Raj Thilak
Legal Aid Counsel

ORDER

This Criminal Original Petition has been filed to withdraw M.C.No.11 of 2014, pending on the file of the Judicial Magistrate Court, Thiruthuraipoondi and transfer the same to the file of the Judicial Magistrate Court, Pattukottai.

2.The learned counsel for the petitioner submitted that the petitioner's estranged wife/2nd respondent filed a maintenance petition in M.C.No.11 of 2014 on the file of the Judicial

Magistrate Court, Thiruthuraipoondi, after the petitioner had initiated a divorce proceedings in H.M.O.P.No.47 of 2013 before the learned Subordinate Judge, Pattukottai. The 1st respondent is appearing before the Subordinate Court, Pattukottai regularly. In order to cause harassment to the petitioner, the 1st respondent has filed the maintenance case in the jurisdiction Court of Thiruthuraipoondi. Earlier the petitioner was kept in illegal custody by the family members of the 1st respondent. Thereafter, the petitioner was released at the instance of the petitioner's mother filing a police complaint and H.C.P.No.391 of 2013 before this Court.

3.The learned counsel for the petitioner further submitted that the distance between Pattukottai and Thiruthuraipoondi is just 30 km. The 2nd respondents are participating in the divorce case in Pattukottai regularly. Hence, the maintenance case filed by the 1st respondent is transferred to the learned Judicial Magistrate, Pattukottai will not cause any inconvenience to her. Further, in a case filing under Section 125 of Cr.P.C., the petitioner would have regularly caused harassment to the respondents. The petitioner fears on the physical assault and threat at the hands of the 2nd respondent and his family members.

4.The learned counsel for the 2nd respondent submitted that the respondents are regularly appearing before the Subordinate Court, Pattukottai in H.M.O.P No.47 of 2013. Further, the case is posted 19.12.2019 for recording the evidence on the side of the respondents. The respondents are the resident of Thiruthuraipoondi Taluk and the Judicial Magistrate Court, Thiruthuraipoondi has got jurisdiction to entertain the maintenance case of the respondents. The 1st respondent being a lady had engaged an advocate at Pattukottai to defend case in H.M.O.P.No.47 of 2013. Other than the working days, the 2nd respondent is on looking her case and travelling to Pattukottai is great difficult.

5.The learned counsel for the 2nd respondent further submitted that the threat apprehended by the petitioner is uncalled-for from the year 2014. The respondents had been left without any subsistence and she is surviving and bringing up her daughter with the help of her family members. Further, the 2nd respondent filed a maintenance case seeking maintenance of Rs.10,000/-. The petitioner from the year 2014 did not take care of his minor daughter/2nd respondent and did not pay any amount to them. The respondents are deprived of monthly maintenance.

6.Considering the rival submissions and on perusal of the materials, this Court finds that the apprehension of the petitioner is uncalled-for and the grounds raised by the

petitioner for transfer of M.C.No.11 of 2014, is without any subsistence.

7.In view of the respondents being deprived the monthly maintenance and the petitioner did not take care of his wife and daughter, this Court is not inclined to entertain the petition filed by the petitioner.

8.Since the case is pending from the year 2014, the trial Court is directed to directed to expedite the trial by giving top priority in disposing the case.

9.With the above direction, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Thiruthuraipoondi.
2. The Judicial Magistrate,
Pattukottai.

CRL.O.P.No.25324 of 2014

SSV(CO)
CS/30/01/2020

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