



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.06.2019**

[Reserved on 23.04.2019]

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

TR.C.M.P (MD)No.158 of 2019

and

C.M.P (MD)No.3331 of 2019

Sundaram

... Petitioner/
Respondent

Vs.

N.Swarnalatha

... Respondent/
Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.425 of 2017 pending on the file of the Family Court, Trichy and transfer the same to the file of the Family Court, Salem District.

For Petitioner : Mr.M.M.Iqbal

For Respondent : Mr.B.Saravanan

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / husband seeking transfer of H.M.O.P.No.425 of 2017 from the file of the Family Court, Trichy to the file of the Family Court, Salem District.

2.It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 20.05.2015. After marriage, both of them lived happily for some time and they blessed with a female child and the child is now aged about 2 years. After delivery, the respondent / wife did not return to the matrimonial home at Bangalore, inspite of several requests made by the petitioner / husband. Hence, he filed M.C.No.39 of 2018 before the learned Principal Family Judge, Bangalore for restitution of conjugal rights. Subsequently, the parents of the respondent attacked his brother and also set fire his house, for which, a case in Crime No.30 of 2017 was registered on the file of Hosur Police Station. As a counter-blast, the respondent filed a dowry complaint before All Women Police Station, Srirangam, Trichy District. When he came to Trichy for attending the said case, the father of the respondent alongwith his henchmen waylaid his car and attacked him with sharp edged weapons. She also filed H.M.O.P.No.425 of 2017 before the Family Court, Trichy, seeking dissolution of marriage with the false allegations. The grievance of the petitioner is that since there is a life threat at the hands of the respondent and her



relatives, it is very difficult for him to attend each and every hearing of the case, before the Family Court, Trichy. Therefore, he seeks for a direction to transfer H.M.O.P.No.425 of 2017 to the file of any Family Court in Salem or Krishnagiri District.

3. On the side of the respondent, a counter affidavit has been filed, wherein it is stated that at the time of marriage, her parents deposited a sum of Rs.15 lakhs as fixed deposit in favour of the petitioner towards dowry and had given 100 sovereigns of gold, 100 kg of silver jewelry and 20 carats of diamond jewelry alongwith household articles worth about Rs.1.5 lakhs. The petitioner has transferred the fixed deposit amount of Rs.15 lakhs to his account and also squandered the amount. He has also leased out the house purchased by her father, by forging his signature and the lease amount was retained by him. The petitioner sent messages through whatsapp and facebook insulting her mother, for which, a case in Crime No.67 of 2017 was registered on the file of Cyber Crime Branch Police, Trichy. The respondent has also filed H.M.O.P.No.425 of 2017 on the file of the Family Court, Trichy, seeking divorce.

4. It is further stated in the counter affidavit that the petitioner opened joint accounts in many banks without her knowledge and her signature was fabricated and the forged cheques were presented through several persons and after bouncing of cheques, 22 notices were issued to her under Section 138 N.I.Act, for which, she gave a complaint and a case was registered in Crime No.134 of 2018, under Sections 506, 34, 465, 120(b), 420, 406, 468, 417, 471 and 474 IPC and investigation is pending. In one of the cases filed by one Christuraj in S.T.C.No.97 of 2018 on the file of the Fast Track Court, Hosur, she obtained an order of interim stay from the Madras High Court.

5. It is also stated in the counter affidavit that the case registered in Crime No.203 of 2018 under Sections 294(b), 324 and 506(ii) IPC, alleging that the father of the respondent attacked the petitioner with sharp edged weapons, was referred as 'mistake of fact' and the said fact has been suppressed by the petitioner. After filing of the said complaint also, the petitioner appeared before the Family Court, Trichy, in the proceedings in H.M.O.P.No.425 of 2017. There is no life threat as alleged by the petitioner. Thus, she prayed to dismiss the petition.

6. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

7. The main grievance expressed on the side of the petitioner / husband is that he is facing life threat at the hands of the father of the respondent and a case was also registered in Crime No.203 of 2018 under Sections 294(b), 324 and 506(ii) IPC on the file of Srirangam Police Station and the said case was registered on 24.03.2018. The respondent has stated in the counter affidavit that after investigation, the said complaint has been referred as



'mistake of fact' and the same has been suppressed by the petitioner, for which, a copy of report obtained from the web-site of Tamil Nadu Police Citizen Portal has also been produced and a perusal of which shows that the case in Crime No.203 of 2018 has been referred as 'mistake of fact' and the said fact has been suppressed on the side of the petitioner. Perusal of copy of diary extract of H.M.O.P.No.425 of 2017 would also show that the petitioner appeared in the proceedings for the hearings on 24.01.2018, 10.05.2018, 07.06.2018, 23.07.2018, 15.10.2018 and 27.02.2019. Hence, after filing of the said case also, the petitioner appeared before the Court below and the petitioner has not stated that he was facing life threat at the hands of the father of the respondent on the said dates. Therefore, the said ground raised on the side of the petitioner has not been made out.

8. Moreover, the Hon'ble Supreme Court in the judgment reported in **2008 (9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**, has held that convenience of woman is to be taken into consideration first at the time of considering transfer application. Therefore, I am not inclined to allow this Transfer Civil Miscellaneous Petition.

9. In view of the above, this Transfer Civil Miscellaneous Petition is dismissed. However, the learned Judge, Family Court, Trichy, is directed to dispose of H.M.O.P.No.425 of 2017 within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (A.E)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judge,
Family Court,
Trichy.

+1 CC to Mr.B.SARAVANAN, Advocate SR-66892.

ORDER MADE IN
TR.C.M.P (MD) No.158 of 2019
and
C.M.P (MD) No.3331 of 2019
04.06.2019