

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.3657 of 2020

and

CRL.M.P.No.2137 of 2020

Selvakumar

... Petitioner

Vs.

D.Ezhil Nangai

W/o.Selvakumar

...Respondent

PRAYER: Criminal Original Petition filed under Section 407 of Cr.P.C, to withdraw the F.C.M.C.No.5 of 2019 pending on the file of the Family Court, Dharmapuri and to transfer the same to the file of the Family Court, Krishnagiri.

(Prayer amended as per order in Cr1.O.P.No.2692 of 2020 in Cr1.O.P.No.3657 of 2020 dated 2.3.2020).

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.V.Sakkarapani

O R D E R

This Criminal Original Petition has been filed to withdraw the F.C.M.C.No.5 of 2019 pending on the file of the Family Court, Dharmapuri and to transfer the same to the file of the Family Court, Krishnagiri.

2. It is averred that the petitioner is the husband of the respondent herein. The marriage was solemnized between the petitioner and the respondent on 02.04.2017. Due to strained relationship between them, they get separated, in which, the respondent also lodged a complaint before the Inspector of Police, Dharmapuri. The petitioner herein also filed a petition for restitution of conjugal rights in H.M.O.P.No.3 of 2019 on the file of the Sub-Court, Harur and it is pending and thereafter the respondent filed the maintenance case in M.C.No.5 of 2019 before the Family Court, Dharmapuri under Section 125 of Cr.P.C., as against the petitioner herein. When the petitioner was appearing before the trial Court, the respondent indulged in untoward act and as such he could not appear before the trial

Court, for each and every hearings. Therefore, he sought for transfer of the case from the file of the Family Court, Dharmapuri to the file of the Family Court, Krishnagiri.

3. It is seen that the respondent being wife has filed the maintenance case in M.C.No.5 of 2019 before the family Court as against the petitioner. Though the petitioner has filed the petition for restitution of conjugal rights, which is pending in H.M.O.P.No.3 of 2019, on the file of the Sub-Court, Harur and the petitioner is not residing far away and therefore, he can very well appear before the Family Court, Dharmapuri, for appearing in the maintenance case filed by the respondent under Section 125 of Cr.P.C. Therefore, this Court is not inclined to transfer the case and the petition has become devoid of merits.

4. In the result, this Criminal Original Petition stands dismissed. Even then, there is some possibility of exploring settlement between the petitioner and the respondent, hence, the trial Court is directed to refer the matter before the District Mediation for amicable settlement between the petitioner and the respondent. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Family Court,
Dharmapuri.
2. The Family Court,
Krishnagiri.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.3657 of 2020
and
CRL.M.P.No.2137 of 2020

SPD (CO)
RV (24/9/2020)