

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5859 of 2020
and Crl.M.P.No.3325 of 2020

M.Arumugam Moorthy

...Petitioner

Vs.

1. Mageshwari

2. Minor Suvarup

Represented by his mother and Natural Guardian,
R.Mageshwari

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to withdraw F.C.M.C.No.27 of 2019 from the file of the Family Court, Chengalpattu and transfer the same to the file of the learned IV Additional Family Court, Chennai to be heard and tried along with the H.M.O.P.No.3276 of 2018 pending in the said Court.

For Petitioner : Mrs.R.Rajashree

For Respondents : Mr.Sugendran

O R D E R

This petition has been filed to withdraw F.C.M.C.No.27 of 2019 from the file of the Family Court, Chengalpattu and transfer the same to the file of the learned IV Additional Family Court, Chennai to be heard and tried along with the H.M.O.P.No.3276 of 2018 pending in the said Court.

2.The learned counsel for the petitioner would submit that the petitioner got married to the first respondent on 27.10.2010. Due to their wedlock the male child was born on 31.01.2012. Thereafter there was strange relationship between them and as such the respondent got separated from the matrimonial home. Thereafter the first respondent filed the petition for divorce on the ground of cruelty before the IV Additional Family Court, Chennai. While pending the said divorce petition, the petitioner filed the petition for seeking restitution of Conjugal Rights in H.M.O.P.No.2681 of 2018 to stay with the second respondent herein. Thereafter the first

respondent also filed the Maintenance Case in M.C.No.125 of 2014 on the file of the IV Additional Family Court, Chennai. Thereafter both the petitions have been withdrawn by the first respondent and thereafter there was a dispute arose between them and the petitioner is constrained to file the petition to divorce in H.M.O.P.No.3276 of 2018 and it is pending on the file of IV Additional Family Court, Chennai. The first respondent filed the petition for Maintenance in F.C.M.C.No.27 of 2019 before the Family Court, Chengalpattu seeking Maintenance of Rs.30,000/- per month from the petitioner. Thereafter, now the divorce petition is pending on the file of the IV Additional Family Court, Chennai and as such the petitioner sought for transfer of the Maintenance case, and it has to be heard along with the divorce petition on the file of the IV Additional Family Court, Chennai.

3.Per contra the learned counsel for the respondents would submit that the petitioner as well as the respondents are residing at Urapakkam and as such for both it is very convenient to attend the Family Court at Chengalpattu. She is also having male child aged about 7 years and as such it may not be possible for the respondents to attend the IV Additional Family Court at Chennai on each and every hearing. Though the divorce petition filed by the petitioner is pending on the file of the IV Additional Family Court, Chennai it is not the ground for seeking transfer of the Maintenance Case on the file of the Family Court, Chengalpattu to the IV Additional Family Court, Chennai. It is further submitted if the divorce petition also transfer to the Family Court, Chengalpattu and she is ready to attend the trial.

4.Heard Mrs.R.Rajashree the learned counsel for the petitioner and the M/s.Sugendran the learned counsel for the respondents.

5.The petitioner and the first respondent are the husband and wife. They got marriage on 27.10.2010 and due to their wedlock the male child was born on 31.01.2012. Thereafter there is strange relationship between them and as such they got separated. The first respondent filed divorce petition in H.M.O.P.No.2681 of 2013 with the file of the IV Additional Family Court, Chennai and also filed Maintenance case in M.C.No.125 of 2014 on the file of the very same Court. Thereafter, there was the negotiation and settlement between the petitioner and the first respondent and as such the first respondent had withdrawn both the cases. Again there is a dispute between them and as such the petitioner was constrain to file divorce petition before the IV Additional Family Court, Chennai in H.M.O.P.No.3276 of 2018 on the ground of cruelty. Thereafter, the first respondent filed a Maintenance case before the Family Court, Chengalpattu in M.C.No.125 of 2014 and it is pending for trial.

6. Admittedly both are residing at Urapakkam and for both it is very convenient to attend the Family Court, Chengalpattu. Considering the above facts and circumstances, it would be appropriate to transfer the divorce petition pending on the file of the IV Additional Family Court, Chennai to the Family Court, Chengalpattu so that both can appear together in both the cases and also for speedy disposal. Accordingly the divorce petition filed by the petitioner in H.M.O.P.No.3276 of 2018 is hereby withdrawn from the file of the IV Additional Family Court, Chennai and transferred to the file of the Family Court, Chengalpattu. The Family Court, Chengalpattu is directed to conduct the simultaneous trial in both the divorce petition and the Maintenance case and complete the trial within the period of nine months from the date of receipt of the bundle from the IV Additional Family Court, Chennai.

7. With the above observations, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judge, IV Additional Family Court, Chennai.
2. The Judge, Family Court, Chengalpattu.

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KS (CO)
RV (03/12/2020)