

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6147 of 2020
and Crl.M.P.No.3441 of 2020

R.Govindaraj
S/o K.Raman
No.8/21, M.G.Road
Dharmapuri - 635 701.

... Petitioner

Vs.

1.M.Devi @ M.Sridevi
W/o R.Govindaraj

2.Minor D.G.Swathi Priya
D/o R.Govindaraj

3.Minor D.G.Haridhra
D/o R.Govindaraj

all are residing at
No.1013, Second floor
7th Main Road, Tiruvanmiyur
Chennai - 600 041.

Also at
Salim Golden Park II
Flat No.S1, Srihari Nagar
(Moogambika Nagar Extension)
Gobarasanallur, Kattupakkam
Chennai - 600 056.

...Respondents

PRAYER: Criminal Original Petition filed under Section 407 of Criminal Procedure Code, to transfer the M.C.No.470 of 2018 on the file of the V Additional Family Court, Chennai to the Family Court at Dharmapuri for disposal.

For Petitioner : Mr.R.Lakshminarayanan
For Respondents : M/s Mr.Md.Ashtagi Rafi

ORDER

The petitioner is before this Court with the prayer to transfer the M.C.No.470 of 2018 on the file of the V Additional Family Court, Chennai to the Family Court at Dharmapuri for disposal.

2.The learned counsel for the petitioner would submit that the petitioner is husband and got married with the 1st respondent and also gave birth to the 2nd and 3rd respondent herein. Due to stray in the relationship, the respondents left the matrimonial home and stayed at Chennai. In Chennai, the 1st respondent filed maintenance case under Section 125 Cr.P.C., for maintenance. Petitioner is having small tiffen shop at Dharmapuri and as such he could not be able to present before the family Court in the M.C.No.470 of 2018 on the file of the learned V Additional Family Court, Chennai. He further submitted that the petitioner filed a petition seeking restitution of conjugal rights in H.M.O.P.No.2087 of 2019, before the Family Court, Dharmapuri and it is pending. Therefore, he sought for transfer of maintenance case pending on the file of the learned V Additional Family Court, Chennai.

3.The learned counsel for the respondents would submit that after separation from the petitioner, he did not care about the respondents and as such also due to harassment, the respondents have driven out from the matrimonial home. The respondents are constrained to stay at Chennai and hence she filed maintenance under Section 125 Cr.P.C., in M.C.No.470 of 2018 before the learned V Additional Family Court, Chennai. The 1st respondent having 2 minor children viz., 2nd and 3rd respondents herein, along with them, she cannot appear before the Family Court, Dharmapuri and he prayed for dismissal of this petition.

4.Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

5.The petitioner is a husband and he got married with the 1st respondent and subsequently gave birth to the 2nd and 3rd respondents herein. Thereafter, there was a constrained relationship between both of them and as such they got separated. Further, the 1st respondent filed maintenance case in M.C.No.470 of 2018 on the file of the learned V Additional Family Court, Chennai, and it is pending. The petitioner herein has filed a petition for restitution of conjugal rights before the Family Court, Dharmapuri, in H.M.O.P.No.2087 of 2019. Further, it is not possible for the respondents to appear before the Family Court, Dharmapuri, where the petitioner has filed the petition for restitution of conjugal rights. Therefore absolutely there is no reason to transfer the maintenance case to the Family Court, Dharmapuri. Hence the petition is devoid of merits.

6. Accordingly, the Criminal Original Petition is dismissed.
Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

To:

1. V Additional Family Court,
Chennai

2. The Family Court,
Dharmapuri

+1cc to Mr.Md.Ashfaq Rafi, Advocate, S.R.No.25482

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VS (CO)
RV (27/08/2020)