

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2020

CORAM

THE HONOURABLE MR.JUSTICE **T.RAJA**

Tr. C.M.P. No.425 of 2020
and C.M.P. No.8522 of 2020

S.Gayathri

... Petitioner

-vs-

R.Prakash

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the HMOP.No.52 of 2014 pending on the file of the Subordinate Judge, Gingee and transfer the same to the Subordinate Court, Poonamallee.

For Petitioner : Mr.R.Dayalan

For Respondent : Ms.R.Sathyabama

ORDER

The Transfer C.M.P. has been filed seeking to withdraw the HMOP.No.52 of 2014 pending on the file of the learned Subordinate Judge, Gingee and transfer the same to the learned Subordinate Judge, Poonamallee.

2. Heard the learned Counsel on either side and I have also perused the typed set of papers carefully.

3. A perusal of the typed set of papers would reveal that the marriage between the petitioner and the respondent was solemnized on 18.08.2011 at Sri Sumangalee Thirumana Mandabam, Gingee, Gingee Taluk, Villupuram District, in accordance with the Hindu Rites and Customs in the presence of parents, friends and relatives of both the families and they were blessed with a female child on 12.05.2012. The respondent husband is a Coolie and the petitioner is a home maid. However, from September, 2014, it is stated that the respondent's attitude towards the petitioner has changed and he started making false allegation against her suspecting her fidelity. While so, the respondent husband filed HMOP.No.52 of 2014 under Section 13(1)(i)(ia) seeking divorce before the Subordinate Court, Gingee. The petitioner wife has filed I.A.No.6/2017 in HMOP.No.52 of 2014 before the Sub-Court, Gingee under Section 125 of Cr.P.C. The learned Subordinate Judge, Gingee, considering the fact that the petitioner deserted the respondent husband and eloped with one Sivagnanam, while dismissing her prayer for maintenance allowed partly the maintenance for her minor daughter Keerthi @ Shruthi at Rs.1,000/- p.m. The order passed by the Subordinate Judge, Gingee dated

11.01.2018 also shows that the petitioner wife is living in adultery and she is working as a construction worker.

4. Therefore, when the learned Subordinate Judge, Gingee has already reached a conclusion that the petitioner wife is not entitled to get maintenance, she is also not entitled to get transfer of HMOP.No.52 of 2014 pending on the file of the learned Subordinate Judge, Gingee to the file of the learned Subordinate Judge, Poonamallee because she has not come to this Court with clean hands besides having married the respondent, she has been leading illicit relationship with one Sivagnanam which is a ground as per Section 13(1)(i)(ia) seeking divorce. Further the respondent is a Coolie. Therefore, the petitioner wife can very well go to the Sub-Court, Gingee to conduct the case in HMOP.No.52 of 2014 pending on his file.

5. With the above observations, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

04.12.2020

Index : Yes/No

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T.RAJA,J.

tsi

To

1. The Subordinate Judge, Gingee.
2. The Subordinate Judge, Poonamallee.



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