

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2020

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CrI.O.P.No.10299 of 2019
and
CrI.M.P.No. 5341 of 2019

P.Kannan

...Petitioner

-Vs-

S.Kavitha

... Respondent

Prayer: Criminal Original petition filed under Section 407 of Code of Criminal Procedure, to withdraw the M.C.No.16 of 2018 on the file of the III Judicial Magistrate, Tirupattur and transfer the same to VII Additional Family Court, Chennai.

For Petitioner : Mr.K.S.Jeyaganeshan

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed under section 407 Crpc., to transfer the M.C.No.16 of 2018 on the file of the Judicial Magistrate No.III, Tirupattur to the VII Additional Family Court, Chennai.

2. Though notice was served on the respondent and Mr.T.Venkatesan, the learned counsel entered appearance on behalf of the respondent, there was no representation in the previous hearing ie., on 22.11.2019. Today also, there is no representation for the respondent. Hence, after hearing the arguments of the learned counsel for the petitioner and perusing the materials submitted before this Court, Order is being passed in this Criminal Original Petition.

3. The learned counsel for the petitioner has submitted that , the petitioner is the husband of the respondent. Already the petitioner herein has filed a H.M.O.P.No.1829 of 2017 for divorce before the VII Additional Family Court, Chennai and in that petition, the respondent herein did not appear and hence she was set exparte and when the mater was posted for orders on 27.02.2019, she filed Transfer C.M.P.No.944 of 2018 to transfer the H.M.O.P.No.1829 of 2017 to the Sub Court, Thirupathur. He further submitted that the said C.M.P.No.944 of 2018 was came up for hearing on

01.02.2019, the respondent herein has withdrew the said petition as "not pressed". He further submitted that subsequently, the respondent herein has filed the petition to set aside the exparte order in H.M.O.P.No.1829 of 2017 and the same is still pending. He further submitted that, when the H.M.O.P.1829 of 2017 for divorce is pending before the VII Additional Family Court, Chennai, with a view to harass the petitioner, the respondent has filed M.C.No.16 of 2018 seeking maintenance under section 125 Crpc., before the Judicial Magistrate No.III, Tirupattur. He further submitted that already one divorce petition is pending before the VII Additional Family Court, Chennai, the case in M.C.No.16 of 2018 also may be transferred to the same Court.

4. Considering the fact that already H.M.O.P.No.1829 of 2017 is pending before the VII Additional Family Court, Chennai, this Court of the view that the case in M.C.No.16 of 2018 also to be transferred to the same Court, so that the parties need not go to different Courts and they can get reliefs before the single court.

5. For the aforesaid reasons, this Criminal Original Petition is allowed. The case in M.C.No.16 of 2018 is withdrawn from the file of the Judicial Magistrate No.III, Thirupathur and transferred to the file of the VII Additional Family Court, Chennai for disposal in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

1. The VII Additional Judge,
VII Additional Family Court,
Chennai.
2. The Judicial Magistrate No.III,
Thirupathur.
3. The Chief Judicial Magistrate,
Vellore District (For information)

Crl.O.P.No.10299 of 2019
and
Crl.M.P.No. 5341 of 2019

NR(CO)
GMY(16/03/2020)