

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.12.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P. No.443 of 2020 and C.M.P. No.9449 of 2020

Shagana @ Suriya

... Petitioner

-vs-

Pozhilan

... Respondent

Prayer: Petition filed under Section 24 of C.P.C. to withdraw and transfer H.M.O.P. No.19 of 2020 pending on the file of Family Court, Villuppuram and order for transferring the same to the Family Court at Neyveli.

For Petitioner : Mr.P.Veeraraghavan

For Respondent : Mrs.P.Kavitha Balakrishnan

O R D E R

Shagana @ Suriya, the petitioner herein has filed this petition for transfer of H.M.O.P. No.19 of 2020 pending on the file of the Family Court, Villuppuram to the file of the Family Court, Neyveli.

2.Learned counsel appearing for the petitioner would submit that after the marriage solemnized on 29.11.2015 between the petitioner and the respondent as per Hindu rights and customs, the petitioner went to her parental home at Neyveli for delivery of the first child and they were blessed with a male child. Subsequently, when the petitioner wanted to go back to the marital home, the respondent refused and on the contrary, he issued a legal notice dated 18.09.2017 calling upon the petitioner to consent for mutual divorce. Learned counsel for the petitioner further submitted that although the elder members of the petitioner's family tried to mediate them, the respondent did not come forward for re-union. Thereafter, the respondent filed a divorce petition in H.M.O.P. No.124 of 2017 before the Family Court, Villuppuram on the ground of cruelty without any basis. Hence, the petitioner filed a petition in Tr.C.M.P. No.265 of 2018 seeking transfer of H.M.O.P. No.124 of 2017 pending on the file of the Family Court, Villuppuram to the file of the Family

Court, Neyveli. This Court, ordered notice and also granted interim stay of the proceedings of the said H.M.O.P. No.124 of 2017. After conciliation, the said Tr.C.M.P. No.265 of 2018 was dismissed as withdrawn, since the petitioner and the respondent started living together in matrimonial home at the respondent's house. Since the respondent started behaving in a different manner and started abusing and insulting the petitioner continuously, the petitioner got fracture on her hand due to severe injuries and was hospitalised at Government Hospital, Villupuram. Due to the same, a police complaint was registered against the respondent and his parents in Crime No.139 of 2019 under Sections 294(b), 323, 324, 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act. Thereafter, the respondent filed a petition in H.M.O.P. No.19 of 2020 before the Family Court, Villupuram for dissolution of marriage with false allegations. Therefore, the petition may be transferred from the file of the Family Court, Villupuram to the file of the Family Court, Neyveli.

3.Mrs.P.Kavitha Balakrishnan, learned counsel appearing for the respondent, opposing the above prayer, forcibly argued that it was only the petitioner all the time creating mental cruelty to the respondent and his family members. When the petitioner came to the this Court seeking transfer, she has not mentioned about the abortion caused by her own mother without the knowledge of the respondent. On earlier occasion when the petitioner was conceived, without the knowledge of the respondent husband, the petitioner's mother, who is unnecessarily interfering with the matrimonial life of the petitioner and the respondent, wrongly convinced the petitioner and aborted the first child through a known Doctor. This aspect has not been mentioned anywhere. However, the husband, against whom the bald allegation made that he caused fracture and frequent physical assault, condoning the petitioner's unilateral decision to abort the child, accepted her to come back to matrimonial home and to live together, which shows that the respondent is not a man of violent to cause physical cruelty by beating her black and blue as alleged by the petitioner. Moreover, when the petitioner alleged that there were injuries, the accident register does not disclose any injury. Therefore, the petitioner has come to this Court on the ground that whenever a woman comes to this Court seeking transfer, the Court always tends to accept her request and her efforts taken, but this tendency should be changed when cruelty or torture is at the hands of the cruel wife. When the husband has been frequently harassed by the petitioner and her family members to come separately from his parents to live with the petitioner's family at Neyveli, it is absolutely impossible for the respondent husband, who is presently working in Salem to come and live with the petitioner and her parents in Neyveli abandoning his parents at Villupuram.

4. But this Court, taking note of the earlier proceedings initiated by the petitioner in Tr.C.M.P. No.265 of 2018, which ended in compromise and as a result both the petitioner and the respondent started living together and considering the fact that they have unfortunately again come to this Court, is inclined to allow this petition. Accordingly, the Transfer C.M.P. stands allowed and the H.M.O.P. No.19 of 2020 pending on the file of the Family Court, Villupuram is withdrawn and transferred to the file of the Family Court, Neyveli. Accepting the case of the respondent that during Covid-19 pandemic situation, the respondent, who is working in Salem, cannot undertake long journey from Salem to Neyveli, this Court directs the Family Court, Neyveli to grant the benefit of Video Conferencing to the respondent without insisting upon his presence, as the virtual court proceedings are quite common now a days. The respondent is also directed to file a list of witnesses without dragging the matter so that the Family Court, Neyveli will take up the matter and dispose of the case amicably. Consequently, C.M.P. No.9449 of 2020 is closed. No costs.

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ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

Vga

To

1. The Family Court,
Villupuram.

2. The Family Court,
Neyveli.

Tr.C.M.P.No.443 of 2020 and C.M.P. No.9449 of 2020

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