

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P. No.454 of 2020
and C.M.P. No.10320 of 2020

Kalaiyarasi

.. Petitioner

-vs-

Chennappan

.. Respondent

Prayer: Petition filed under Section 24 of C.P.C. to withdraw and transfer the proceedings in the H.M.O.P. No.08 of 2020 on the file of the Subordinate Court, Uthangarai and transfer the same to the District Family Court, Coimbatore.

For Petitioner : Mr.G.Sugadev Rajaguru

For Respondent : Mr.J.Ramesh

O R D E R

Kalaiyarasi, the petitioner herein has filed this petition for transfer of H.M.O.P. No.8 of 2020 pending on the file of the Subordinate Court, Uthangarai to the file of the District Family Court, Coimbatore.

2.Learned counsel appearing for the petitioner would submit that after solemnisation of marriage between the petitioner and the respondent on 11.07.2019 at Kallavi Panamarathuppatti Sri Kariyaperumal Temple, according to Hindu rites and customs, they lived together with the members of the respondent's family and the petitioner became pregnant. But, the respondent and his family members brought the petitioner to a Hospital and aborted the petitioner's pregnancy. Although the respondent and his family members had tortured the petitioner, she tolerated all the tortures given to her. Finally, the petitioner had been constrained to leave her matrimonial home and went to her parents' home at Coimbatore. Learned counsel appearing for the petitioner would further submit that the petitioner has lodged a complaint against the respondent herein before the Kallavi Police Station and an enquiry was conducted by the police officers and as per the advice of the elders and relatives, the

respondent had agreed to lead a happy and peaceful matrimonial life with the petitioner herein. Though the petitioner has requested the respondent to come and stay with her parental home at Coimbatore for some time, the respondent is not ready for the said suggestion. Thereafter, the respondent has filed a petition in H.M.O.P. No.8 of 2020 on the file of the Subordinate Court, Uthangarai seeking restitution of conjugal rights stating false and frivolous allegations against the petitioner herein. Since it would be inconvenient for the petitioner to travel from Coimbatore to Uthangarai which is about 253 kms. for every hearing, the petitioner has filed this petition seeking transfer.

3.Opposing the above prayer, learned counsel appearing for the respondent would submit that it is highly unfair on the part of the petitioner to insist the respondent to come and stay with her parental home abandoning the respondent's family, when it is a usage and culture of both the respondent and petitioner to lead a happy life in the matrimonial home. If the respondent stays with the parental home of the petitioner on her compulsion, the respondent will lose his comfort, freedom and self respect, Therefore, he is not ready to live with the petitioner at her parental home with her family members.

4.I also agree with the submission made by the learned counsel appearing for the respondent. When the petitioner is asking for re-union, she cannot dictate terms to live with her family members abandoning the respondent's family at lurch, which is highly inappropriate. It may not be possible for the respondent to come and live along with the petitioner with her parental home because the journey from Coimbatore to Uthangarai is about 253 kms. Therefore, finding that the petitioner is not reasonable in her offer, this Court is inclined to dismiss this petition. Accordingly, the Tr.C.M.P. is dismissed. However, the dismissal of the petition will not come in the way of both of them to lead a happy life and if the petitioner is willing to come and stay with the respondent, the respondent shall not create any problem to the petitioner. Consequently, C.M.P. No.10320 of 2020 is closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

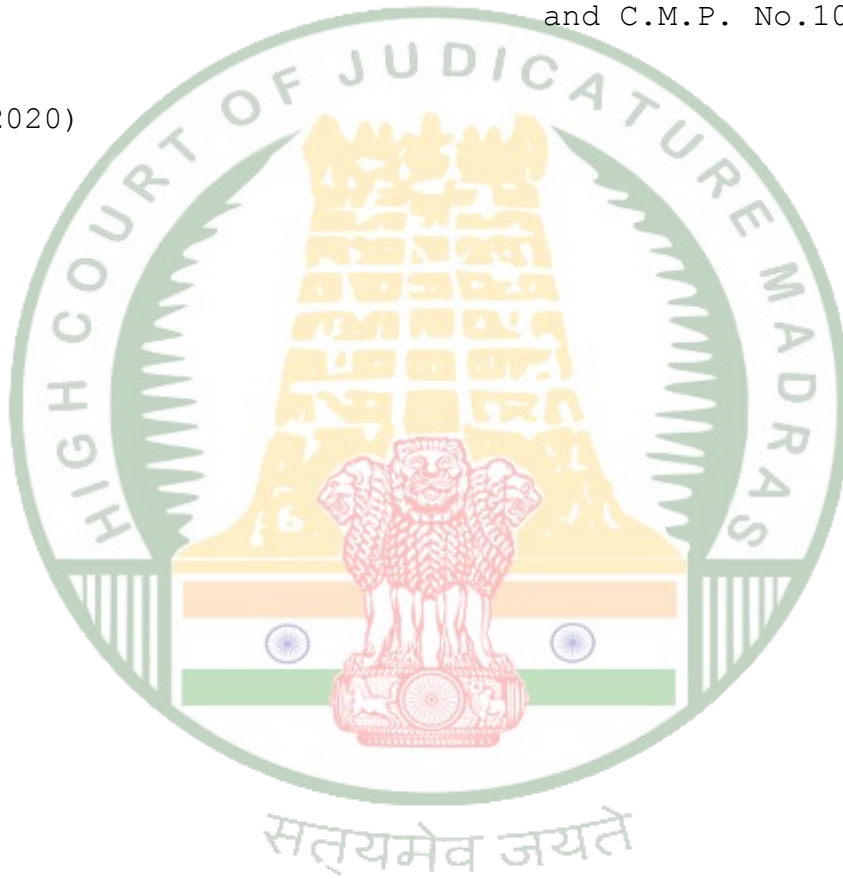
1.The Subordinate Judge,
Uthangarai.

2.The District Family Court,
Coimbatore.

+1 CC to Mr.J.Ramesh, Advocate sr 35156

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SP(10/11/2020)



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