

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE T. RAJA

TR.C.M.P. No. 473 of 2020

&

C.M.P. No. 11531 of 2020

N.C.V. Aishwarya

..Petitioner/Respondent

Vs.

A.S. Saravana Karthik Sha

..Respondent/Petitioner

Prayer: Petition to withdraw F.C.O.P. No. 125 of 2020 on the file of Family Court, Vellore and transfer the same to Family Court, Chennai for disposal in accordance with law.

For Petitioner :: Mr. Jayakumar

For Respondent :: No Appearance

O R D E R

This Tr.C.M.P. has been filed by the wife seeking transfer of pending F.C.O.P. No. 125 of 2020 on the file of Family Court, Vellore, to the file of Family Court, Chennai.

2. Learned counsel for the petitioner submitted that after the solemnisation of marriage between the petitioner and the respondent on 05.03.2020 at Kanna Mahal Annal Salai, Vellore, as per Hindu rites and customs, in the presence of parents and relatives of both parties, the petitioner was not even allowed to talk to her parents freely and the respondent has also failed to discharge his duty as a husband as a result of which the petitioner was put to mental torture. But, the respondent/husband, within four months time, filed the petition in O.P. NO. 125 of 2020 before the Family Court, Vellore to declare the marriage as null and void on the ground that the marriage has not consummated. Further, according to the learned counsel for the petitioner, since the distance between Vellore and Chennai is 120 Kms, it will be difficult for the petitioner to undertake the journey. It is also his contention that as per Section 19(iii)(a) of Hindu Marriage Act, 1955, special preference has to be given to the wife to file a petition or defending the case of the husband before the Court within whose jurisdiction she resides. When the intention of the legislature

is to safeguard the interest of the wife, F.C.O.P. No. 125 of 2020 filed before the Family Court, Vellore has to be transferred to the file of Family Court, Chennai.

3. But, this Court finds it difficult to accept the request for transfer. On a perusal of the papers in F.C.O.P. NO. 125 of 2020, it is seen that even on the first day of marriage, the marriage was not consummated for the reason that the petitioner had not co-operated with the respondent on the ground that she was suffering from stomach pain. When the petitioner refused to co-operate with the respondent and made a hue and cry, the respondent/husband filed F.C.O.P. No. 125 of 2020 within four months before the Family Court, Vellore. Therefore, when the petitioner has not come to the Court with clean hands and the fault appears to be on the part of the petitioner, this Court is not inclined to order transfer of F.C.O.P. No. 125 of 2020. Moreover, the petitioner has not disputed the allegation against her. However, considering the fact that she is a woman living far away and also the present Covid 19 pandemic situation, this Court, while dismissing the Tr.C.M.P., directs the Family Court, Vellore to give the benefit of video conferencing to the petitioner for chief examination, cross-examination and arguments to be advanced by her counsel. With this direction, the Tr.C.M.P. stands dismissed. No costs. Connected C.M.P. is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Nv

To

The Family Court Judge, Vellore.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

+lcc to Mr.Seenuvasan, Advocate, S.R.No. 37426

Tr.C.M.P. No. 473 of 2020

MG(CO)
GN(11/12/2020)