

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.11.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P. No.484 of 2020 and C.M.P. No.11914 of 2020

S.Ezheely @ Sreepriya

.. Petitioner

-vs-

M.Saminathan

... Respondent

Prayer: Petition filed under Section 24 of C.P.C. to withdraw the H.M.O.P. No.26 of 2018 pending on the file of Sub Court, Karur and transfer the same to the Family Court, Pondicherry.

For Petitioner : Mr.K.C.Karl Marx

For Respondent : No appearance

O R D E R

S.Ezheely @ Sreepriya, the petitioner herein has filed this petition for transfer of H.M.O.P. No.26 of 2018 pending on the file of the Sub Court, Karur to the file of the Family Court, Pondicherry.

2.Learned counsel appearing for the petitioner would submit that after the marriage solemnized on 31.03.1997 between the petitioner and the respondent, they were blessed with a male child namely Pradeesh on 18.12.1997. After one year from the date of marriage, they shifted to Pondicherry where the respondent started his finance business. Thereafter, they went back to Karur in order to take care of the respondent's mother, who was suffering from Cancer and that the respondent used to often visit to Pondicherry for his business purposes. In the meanwhile, the petitioner came to know that the respondent has developed illicit intimacy with one Devi and married her at Thirupathi during the subsistence of their marriage. Since she suffered even for her basic needs in the marital home, she filed D.V.C. No.15 of 2017 before the learned Judicial Magistrate No.II, Karur seeking maintenance and other reliefs and the learned Judicial Magistrate No.II, Karur, by order dated 07.04.2018 in Crl.M.P. No.56 of 2018 in the above D.V.C. No.15 of 2017 has directed the respondent to pay Rs.10,000/- towards monthly maintenance and Rs.5,000/- towards annual educational expenses. Subsequently, the respondent has filed a petition in H.M.O.P. No.26 of 2018 before the Sub Court, Karur for divorce with false averments and allegations against the petitioner.

Learned counsel appearing for the petitioner further submitted that since the distance between Pondicherry and Karur is more than 300 kms., it will be highly difficult for the petitioner to undertake such a long journey.

3. I also find merits on the submissions. It is submitted by the learned counsel for the petitioner that although the petitioner has filed D.V.C. No.15 of 2017 and the learned Judicial Magistrate has directed the respondent to pay a sum of Rs.10,000/- towards maintenance and Rs.5,000/- towards annual educational expenses in Crl.M.P. No.56 of 2018 in D.V.C. No.15 of 2017 by order dated 07.04.2018, he has not come forward to pay the same. As a result, the petitioner is not able to meet out the basic necessity to lead a decent life. Secondly, the allegation put against the respondent is that during the subsistence of marriage, the respondent has married one Devi and living happily with her in Pondicherry. Without going into the merits of the said averments, taking note of the facts that as the petitioner has been struggling for her life without any financial support, she cannot undertake a long journey from Karur to Pondicherry and neither the counsel for the respondent nor the respondent has chosen to appear to argue the case, although notice has been served and the name of the respondent has been printed in the cause list, which shows that the respondent is not interested in conducting the case and he has no objection in allowing this petition, this Court is inclined to allow this petition. Accordingly, the Transfer C.M.P. stands allowed and the H.M.O.P. No.26 of 2018 pending on the file of the Sub Court, Karur is withdrawn and transferred to the file of the Family Court, Pondicherry. The Family Court, Pondicherry shall dispose of the case expeditiously, on merits and in accordance with law. Consequently, C.M.P. No.11914 of 2020 is closed. No costs.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

vga

To

- 1.The Subordinate Judge, Karur.
- 2.The Judge, Family Court, Pondicherry.

+1cc to Mr.Karl Marx K.C. Advocate, S.R.No. 37902

Tr.C.M.P. No.484 of 2020 and C.M.P. No.11914 of 2020

GP(CO)

GN(11/12/2020)