

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.680 of 2019 and
CMP.No.19367/2019

A.Madhuri

.. Petitioner

-vs-

K.Vijayakumar

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24(1) of the Civil Procedure Code, to withdraw the H.M.O.P.No.5148/2018 pending on the file of the learned IV Additional Family Court Judge, Chennai to the Sub-Court at Tenkasi Tirunelveli District for proper effectual adjudication and determination under law.

For Petitioner

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No appearance

For Respondent

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No appearance

ORDER

The matter was taken up through video conferencing due to the Covid-19 pandemic.

2. The petitioner-Mrs.A.Madhuri, wife of Mr.K.Vijayakumar, the

respondent herein has filed this Transfer Civil Miscellaneous Petition seeking withdrawal of the H.M.O.P.No.5148/2018 pending on the file of the learned IV Additional Judge, Family Court, Chennai, filed by her husband seeking dissolution of the marriage, to the Sub-Court at Tenkasi, Tirunelveli District.

3. When the matter was called today, there was no representation on either side.

4. It is averred in the affidavit filed in support of the petition that the petitioner Mrs.A.Madhuri after having married Mr.K.Vijayakumar, the respondent herein on 05.06.2017 as per the Hindu rites and customs at Arulmighu Palayam Salai Kumaraswamy Temple, Sindhupoondhurai, Tirunelveli District, lived with him only for twenty days. Thereafter, the respondent-husband started giving torture to the petitioner-wife, by demanding a sum of Rs.5,00,000/- as dowry and other articles at the instigation of his parents. When the same was informed to the petitioner's parents, they rushed to the respondent's residence at Chennai and compromised the issue between the parties. But, according to the

petitioner, however, the respondent husband continuously tortured her by demanding a sum of Rs.5,00,000/- and thrown her out from the matrimonial home. Therefore, it is averred that the petitioner-wife gave a complaint on 29.01.2019 against the respondent and her in laws before the All Women Police Station, Tenkasi, who also registered a case in Crime No.2/2019 under Sections 498 (A) of IPC read with Section 4 of Dowry Prohibition Act, 1961. Thereafter, the respondent-husband has filed a Divorce Petition in HMOP.No.5148/2018 before the IV Additional Family Court at Chennai under Section 13(1)(i-a) of the Hindu Marriage Act seeking dissolution of marriage. Thereafter, in the counselling which took place, the petitioner has expressed her willingness to live with the respondent. Since the respondent-husband was not ready for reunion, now the above HMOP was posted for filing counter affidavit before the trial court. At this stage, according to the petitioner, since she is residing at Velayuthapuram Village, Tirunelveli District, she is unable to come over to contest the case in HMOP.No.5148/2018 which is pending before the learned IV Additional Judge, Family Court, Chennai. Therefore, seeking transfer of the same to the the file of the Subordinate Judge, Tenkasi, the present Transfer Civil

Miscellaneous Petition has been filed.

5. A perusal of the records would go to show that already the Tr.CMP.No.680/2019 was dismissed for non-prosecution by this Court on 10.12.2019 and after taking steps, the same was restored on the file of this Court on 25.02.2020. It also reveals that there was no representation on either side before this Court for the past 7 hearings after restoration. Therefore, this Court is left with no other option except to dispose of the matter with the available materials.

6. Firstly, considering the fact that the petitioner-wife is now residing at Velayuthapuram Village, Tirunelveli District, this Court is of the view that it is not advisable for her during this Covid-19 pandemic to undergo a long travel from Tirunelveli to Chennai, which is about 650 kms. for attending the hearings in HMOP.No.5148/2016 before the IV Additional Judge, Family Court, Chennai. Secondly, now-a-days, the number of Covid-19 cases are raising in Chennai while comparing to other places. Therefore also, it is not safety for both parties to contest the case in Chennai. Thirdly, there is no proper transport facility

available for the petitioner to travel from Tirunelveli to Chennai to attend the Family Court at Chennai and contest the HMOP filed by her husband due to the lock down announced by the Government.

7. In view of all the above, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.5148/2018 is withdrawn from the file of the learned IV Additional Judge, Family Court, Chennai and transferred to the Sub-Court at Tenkasi, Tirunelveli District for expeditious disposal on merits. Consequently, connected Miscellaneous Petition is closed.

21.08.2020

Speaking/Non speaking order

Index : yes/no

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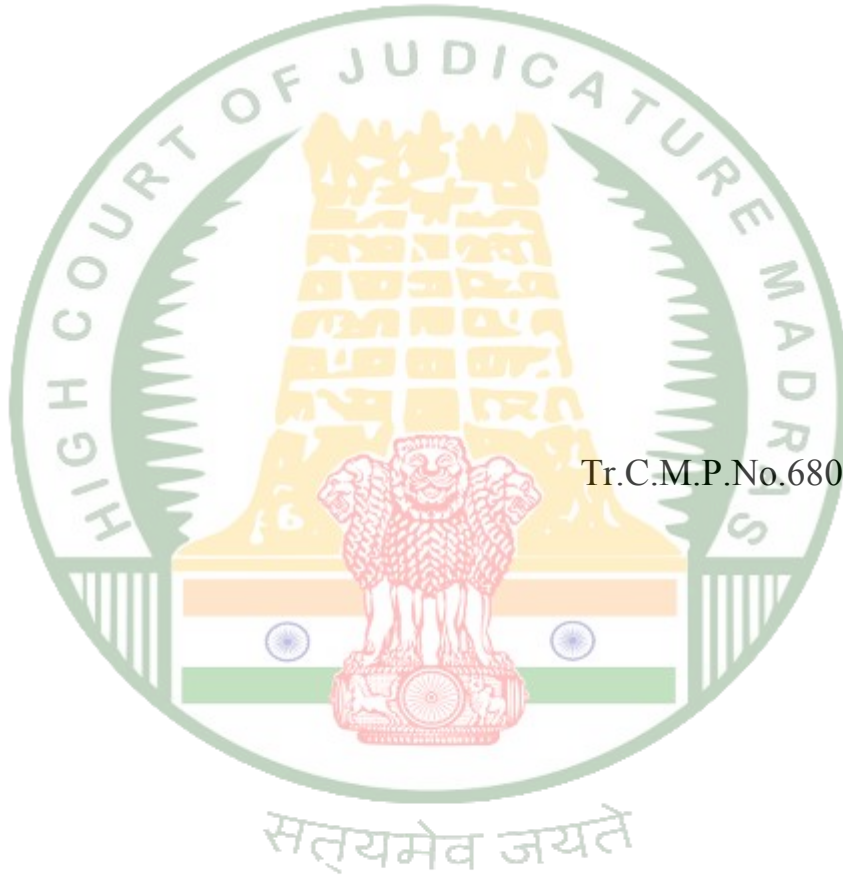
To

1. The IV Additional Judge,
Family Court, Chennai.

2. The Subordinate Judge
Tenkasi

T.RAJA, J.

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Tr.C.M.P.No.680 of 2019

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