

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.716 of 2019 and
C.M.P.No.20258 of 2019

S.K.Sivaranjani

... Petitioner

Vs.

K.Ganesh Babu

... Respondent

Prayer:

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the O.P.No.1704 of 2019 on the file of learned VII Judge, Family Court, Chennai and transfer the same to the file of Additional Family Court, Coimbatore to be tried along with M.C.No.148 of 2019.

For Petitioner : Mrs.S.Viji

For Respondent : Mr.P.Prince Premkumar

O R D E R

The petitioner herein has filed the present petition praying to withdraw the O.P.No.1704 of 2019 on the file of learned VII Judge, Family Court, Chennai and transfer the same to the file of Additional Family Court, Coimbatore to be tried along with M.C.No.148 of 2019.

2. The petitioner is the wife and the respondent is the husband. The case of the petitioner is that she got married to the respondent on 22.01.2018 at Sankara Narayana Kalyana Mandapam at Maruthamalai Main Road, Coimbatore and the same was an arranged marriage, which took place in accordance with Hindu Rites and Customs. There were no children born to them. The petitioner is a MCA Degree holder and was waiting for a suitable job by attending interviews and the respondent claims that he is a MBA Graduate and working as a HR Specialist at Flextronics Company, Taramani, Perungudi, Chennai, however, the respondent is not qualified for that degree and same had came to light to the petitioner at the time of counselling only, which took place at Family Court, Chennai.

3. It is the further case of the petitioner that the respondent is the distant relative to the petitioner and after engagement, just for a two months, he spoke with the petitioner and thereafter, he had refrained himself from talking to the petitioner. The respondent just before two weeks to marriage, had expressed that he is not willing to marry the petitioner. As soon as the petitioner had informed the same to her father, her father had enquired the same with the respondent's family, in consequence, the respondent's family had informed that all the arrangements for the marriage were done with the consent of the respondent only. Thereafter, the petitioner's father had spent lot of money on her marriage and solemnized the same. Thereafter, the respondent's parents had started to harass the petitioner by causing mental agony and demanding dowry. In view of the unbearable torture, the petitioner was forced to lodge a police complaint against the respondent and his family members. The petitioner issued a legal notice on 27.03.2019 to the respondent with reference of her occupied portion with full details and on receiving the same, the respondent filed a divorce petition in M.O.P.No.74 of 2019 with false address. Further, the respondent is fully aware that the petitioner is staying at Coimbatore, but chosen to issue false address at Chennai and that the petitioner had attended three hearings at Family Court, Chennai and counselling also. The petitioner finds it very difficult to travel from Coimbatore to Chennai for each and every hearing and her father has to accompany her, who is a heart patient, hence she seeks transfer.

4. According to the respondent, the expenses of the marriage held between him and the petitioner was equally shared and there is no dowry harassment, as alleged by the petitioner and it is the petitioner, who had caused mental agony and always threatened the respondent and his family members stating that her grand father is a retired Deputy Superintendent of Police and that she can do anything as against the respondent and his family. Further, the petitioner used to always suspect the respondent and whenever the respondent explains his situation in his office, the petitioner was not ready to listen his words and that a wordy quarrel took place, due to the same, petitioner had left the matrimonial home and never turned back. In consequence, the respondent requested her to come and join with him, for which, she uttered that she is not willing to live with him. Left with no other option, the respondent had filed a divorce petition.

5. The learned counsel for the petitioner submitted that the petitioner has filed a petition under Domestic Violence Act in D.V.A.No.133 of 2019 and M.C.No.148 of 2019 was filed before the II Family Court, Coimbatore and the same are pending, hence, the petitioner seeks to transfer the divorce

petition, viz., O.P.No.1704 of 2019 filed by the respondent / husband to the Additional Family Court, Coimbatore.

6. Heard the learned counsel on either side and perused the documents on record.

7. Considering the facts and circumstances of the case and taking note of the fact the well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another] and to avoid conflicting decisions, this Court is inclined to allow the petition filed by the petitioner and the same is hereby allowed.

8. Accordingly, the O.P.No.1704 of 2019 on the file of learned VII Additional Judge, Family Court, Chennai is withdrawn and transferred to the file of Additional Family Court, Coimbatore to be tried along with M.C.No.148 of 2019. The learned VII Additional Judge, Family Court, Chennai is directed to transmit the entire case bundles / records relating to O.P.No.1704 of 2019 to the Additional Family Court, Coimbatore within a period of four weeks from the date of receipt of copy of this order and on receipt of the same, the learned Additional Judge, Family Court, Coimbatore is directed to dispose of the same as expeditiously as possible. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ssd

To

1.The VII Additional Family Court,
Chennai.

2.The Additional Family Court,
Coimbatore.

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NRL (CO)
CB(10/03/2020)