

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.31444 of 2019

Archana,
W/o.Karthik,
D/o.Late Singaravelan,
No.14, Maharaja Nagar,
Eluvapalli, Bagalur Road,
Hosur, Krishnagiri.

...Petitioner/Petitioner

Vs.

1. Karthik,
S/o.Palani,
No.1, 9th North Street,
MGR Nagar, Tharapadavedu,
Katpadi, Vellore.

2. Palani Mudaliar,
S/o.Duraisami,
No.1, 9th North Street,
MGR Nagar, Tharapadavedu,
Katpadi, Vellore.

3. Lakshmi Ammal,
W/o.Palani Mudaliar,
No.1, 9th North Street,
MGR Nagar, Tharapadavedu,
Katpadi, Vellore.

...Respondents/Respondents

PRAYER: Criminal Original Petition filed under Section 407 of Cr.P.C. praying to withdraw D.V.C No.2 of 2018 pending on the file of Judicial Magistrate Court, Katpadi, Vellore and transfer the same to District Munsif cum Judicial Magistrate Court No.1, Hosur, Krishnagiri District.

For Petitioner : Mr.G.Mohammed Aseef

For Respondents : Ms.Gowhar Un Nissa

ORDER

This petition has been filed for transfer proceedings in D.V.C.No.2 of 2018 from the file of the Judicial Magistrate Court, Katpadi, Vellore District to the file of the District Munsif cum Judicial Magistrate Court No.1, Hosur, Krishnagiri District.

2. The learned counsel for the petitioner would submit that, initially the petitioner was living at Katpadi, Vellore District, and as such, she filed petition/complaint under the Domestic Violence Act in D.V.C.No.2 of 2018 to the file of the Judicial Magistrate Court, Katpadi, Vellore District. In fact, the first respondent/husband of the petitioner has also filed a petition for divorce and the same is pending on the file of the Subordinate Court, Vellore District. While being so, the petitioner shifted her residence to Hosur, Krishnagiri District for the purpose of education to her minor child. Now she residing at Hosur and her child also studying at Hosur, Krishnagiri District. Therefore, she sought for transfer of Domestic Violence Complaint.

3. The learned counsel for the respondent would submit that, the Domestic Violence Complaint has been filed by the petitioner as against the respondents, in which the first respondent is husband of the petitioner and second and third respondents are her in-laws. They are aged persons and they are not able to appear before the trial Court. The learned counsel for the respondents further submitted that, the petitioner is residing in the District of Thiruvannamalai and only to harass the respondents, this petition has been filed by the petitioner. Therefore, she sought for dismissal of the transfer petition.

4. Heard, Mr.G.Mohammed Aseef, learned counsel for the petitioner and Ms.Gowhar Un Nissa, learned counsel for the respondents.

5. The petitioner filed complaint under the Domestic Violence Act in D.V.C.No.2 of 2018 and it is pending on the file of the Judicial Magistrate Court, Katpadi, Vellore District. The first respondent/husband of the petitioner also filed divorce petition in H.M.O.P.No.106 of 2017 and it is pending on the file of the Subordinate Court, Vellore District, and as such, the presence of the petitioner does not require and she can appear through her counsel. That apart, the petitioner now shifted her residence.

6. Considering the above facts and circumstances, this Court is inclined to transfer the Domestic Violence Complaint in D.V.C.No.2 of 2018. Accordingly, the Domestic Violence Complaint in D.V.C.No.2 of 2018 is hereby withdrawn from the file of the Judicial Magistrate Court, Katpadi, Vellore District and the same was transferred to the file of the District Munsif cum Judicial Magistrate Court No.1, Hosur, Krishnagiri District. However, considering the age of the second and third respondents, the personal appearance of the second and third respondents are dispensed with before the trial Court viz., the District Munsif cum Judicial Magistrate Court No.1, Hosur,

Krishnagiri District, and they shall be represented by a counsel after filing appropriate application. The second and third respondents shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

7. On receipt of the entire bundle, the District Munsif cum Judicial Magistrate Court No.1, Hosur, Krishnagiri District is directed to complete the trial proceedings within a period of six months from the date of receipt of a copy of this order.

8. This Criminal Original Petition is allowed with the above observations and directions.

Sd/-
Assistant Registrar(CS III)MDU

//True Copy//

Sub Assistant Registrar

arb

To

1. The Judicial Magistrate,
Katpadi, Vellore.
2. The District Munsif cum Judicial Magistrate No.1,
Hosur, Krishnagiri District.

CRL.O.P.No.31444 of 2019

VG II (CO)
KKV/24/09/2020