

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.NO.33666 OF 2019

AND

CRL.M.P.NO.18593 OF 2019

Madhankumar,
S/o.Tamilarasan

... Petitioner

versus

Nirmala,
W/o.Madhankumar

.... Respondent

Prayer: Criminal Original Petition filed under Section 407(b) Cr.P.C., seeking to transfer M.C.No.117 of 2019 from the file of Principal Family Court, Coimbatore to the file of the Judicial Magistrate Court-I, Mannargudi.

For Petitioner : Mr.M.Thamizhavel
For Respondent : Mr.T.Balaji

O R D E R

This Criminal Original Petition has been filed praying to transfer M.C.No.117 of 2019 from the file of the Principal Family Court, Coimbatore to the file of the Judicial Magistrate No.I, Mannargudi.

2. The petitioner is the husband of the respondent. Their marriage was solemnized on 03.06.2011 as per Hindu rites and customs. After marriage both the petitioner and the respondent started their matrimonial life at petitioner's matrimonial home in Alangottai Post, Mannargudi Taluk, Thiruvarur District. After some time, due to difference of opinion, the respondent left the matrimonial home and residing with her parents in Coimbatore.

3. Further case of the petitioner is that after leaving matrimonial home, the respondent herein filed a petition for divorce in H.M.O.P.No.901 of 2019 on the file of the Principal Family Court, Coimbatore and on the other hand, the petitioner filed petition for restitution of conjugal rights in H.M.O.P.No.126 of 2019 on the file of Sub Court, Mannargudi. Subsequently, in view of the order passed by this Court in

Tr.C.M.P.No.702 of 2019, the same was transferred to the Principal Family Court, Coimbatore and as of now, both the cases are pending on the file of the Principal Family Court, Coimbatore. Only in the said circumstances, the respondent filed the petition mentioned M.C.No.117 of 2019 before the Principal Family Court, Coimbatore in which he is claiming maintenance under Section 125 Cr.P.C.

4. The learned counsel for the petitioner would submit that since the distance between Mannargudi and Coimbatore is nearly 300kilometres, it is difficult for the petitioner to attend the case proceedings in M.C.No.117 of 2019 pending on the file of the Principal Family Court, Coimbatore and therefore, it is necessary to transfer the said maintenance petition, as prayed for.

5. On considering the said submission made by the learned counsel for the petitioner, during the time of his argument, he himself admitted that the petition filed by him against the respondent for the relief of dissolution of marriage and the petition filed for the relief of restitution of conjugal rights are pending before the Principal Family Court, Coimbatore, further the very same Court is having jurisdiction to try the petition filed under Section 125 Cr.P.C.

6. Therefore, in the said circumstances, for avoiding the conflict of decisions, I am of the considered opinion that it is necessary to continue the proceedings initiated in M.C.No.117 in the same Court at Coimbatore. In this regard, if the prayer sought by the petitioner is considered in his favour, there may be a chance of conflict of decisions. Further, considering the fact that the respondent being the wife of the petitioner, directing her to go and appear before the learned Judicial Magistrate No.I, situated in Mannargudi, would cause much inconvenience which is against general principle that in matrimonial matters only the convenience of the wife has to taken into account and therefore, I am of the opinion that the reason stated by the petitioner is devoid of merits.

7. Therefore, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1. The Judicial Magistrate Court-I,
Mannargudi.

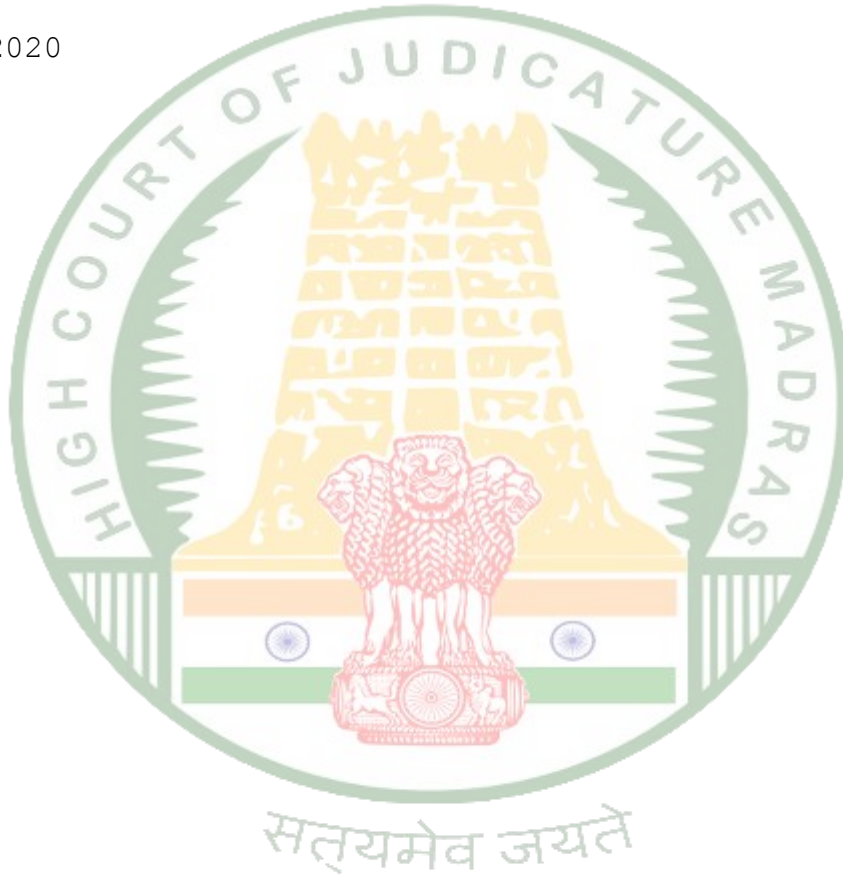
+1cc to M/s.M.Thamizhavel, Advocate, S.R.No.32862

+1cc to M/s.A.Thiyagarajan, Advocate, S.R.No.32578

CrI.O.P.No.33666 of 2019
and

CrI.M.P.No.18593 of 2019

SAI (CO)
CS/29/10/2020



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