

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2020

CORAM

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.No.33523 of 2019

1. A.Gayathri
2. Minor. A.Sirunagai ... Petitioners

Vs.

1. S.Arivazhagan
2. S.Anjalai
3. S.Anbu Thendral
4. S.Selvi
5. S.Thilakavathy ... Respondents

Criminal Original Petition is filed under Section 482 r/w of the Code of Criminal Procedure, to transfer the M.C.No.23 of 2015 pending on the file of Additional Mahila Court, Trichy, to the file of [The Sub Court has been amended as Judicial Magistrate as per the order of this Court dated 18.12.2019 made in Crl.MP.No.18785 of 2019 in Crl.OP.No.33523 of 2019] Judicial Magistrate, Needamangalam, Tiruvarur District.

For Petitioners: Mr.P.Chandrasekar

For Respondents: Mr.Vakeeswaran
For Mr.R.Ganesh Babu

ORDER

This Criminal Original Petition has been filed to withdraw the M.C.No.23 of 2015 from the file of Additional Mahila Court, Trichy, and transfer the same to the file of Judicial Magistrate, Needamangalam, Tiruvarur District.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

3. The first petitioner herein is the wife of the first respondent. The marriage between them was solemnised on 23.05.2007 as per Hindu Rites and Customs. After the marriage, due to difference of opinion, the first petitioner left the

matrimonial home and residing in Trichy. During such time, the first respondent filed an application in H.M.O.P.No.106 of 2017 before the Family Court, Trichy, for the relief of divorce. Similarly, the first petitioner also filed another application in H.M.O.P.No.105 of 2017 before the Sub ordinate Judge, Trichy, for the relief of Restitution of Conjugal Rights. Prior to that, in the year 2015, she had filed M.C.No.23 of 2015 on the file of the Additional Mahila Court, Trichy, seeking for maintenance to pay a sum of Rs.30,000/- as monthly maintenance and Rs.50,00,000/- towards welfare of the child as well as lifetime settlement, and the same is now pending on the file of the Additional Mahila Court, Trichy.

4. Now after filing the above referred petitions, this application has been filed stating that due to family circumstances, the first petitioner had shifted her residence from Trichy to Needamangalam, Thiruvarur District, and therefore, it is very difficult to the petitioner in attending the Court proceedings in Trichy. Only in the said circumstances, she has filed this petition before this Court, seeking for transfer of M.C.No.23 of 2015 pending on the file of Additional Mahila Court, Trichy, to the file of Judicial Magistrate, Needamangalam, Tiruvarur District.

5. In respect to this application, the learned counsel for the petitioner has submitted that the petitioner finds very difficult to attend the Court at Trichy after traveling 100 kilometers, however, he fairly conceded that in M.C.No.23 of 2015 trial has commenced. Apart from that, it is not in dispute that the petition filed for dissolution of marriage and restitution of conjugal rights are still pending in the Court situated at Trichy.

6. On considering the said circumstances, In general, after the commencement of trial, transferring the case from one Court to another Court will cause much prejudice to either parties. Only on that scar alone, the petition filed by the petitioner is devoid of merits. Another one aspect which is necessary to decide in this case is, already in respect of the cases filed by the petitioner in H.M.O.P.Nos.105 & 106 of 2017, the very same petitioner herein filed a transfer application before this Court and the same was dismissed. Therefore, attending the Court situated at Trichy in all cases will not cause much prejudice to the petitioner. However, considering the facts and circumstances of the case, it would be appropriate to direct the Additional Mahila Court, Trichy, to dispose of M.C.No.23 of 2015 as expeditiously as possible.

7. Accordingly, the Additional Mahila Court, Trichy, is directed to dispose of M.C.No.23 of 2015 as expeditiously as

possible, preferably within three months from the date of receipt of a copy of this order.

8. With the above direction, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raja

To

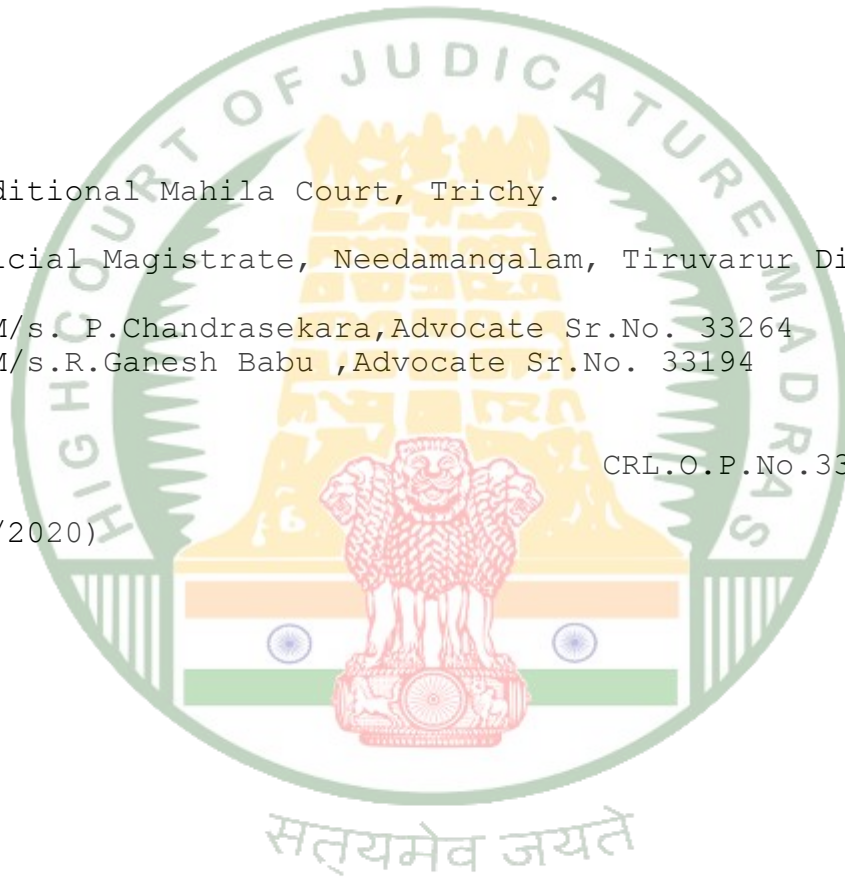
1. The Additional Mahila Court, Trichy.
- 2.The Judicial Magistrate, Needamangalam, Tiruvarur District.

+1 cc to M/s. P.Chandrasekara, Advocate Sr.No. 33264

+1 cc to M/s.R.Ganesh Babu , Advocate Sr.No. 33194

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UM (CO)
RMP (07/12/2020)



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