

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl OP.No.34344 of 2019

and

Crl M.P. No.18995 of 2019

Shafialam

...Petitioner

Vs.

Jesima Banu

...Respondent

Prayer: Criminal Original Petition filed under Section 407 of Cr.PC praying to withdraw the M.C.No.23 of 2015 on the file of the Judicial Magistrate, Dharapuram, pending herein and transfer petition and transfer the same to any Magistrate Court at Coimbatore.

For Petitioner : Mr. C. Veera Raghavan
For Respondent : No appearance.

ORDER

This Criminal Original Petition has been levied seeking to transfer the M.C.No.23/15 pending on the file of the Judicial Magistrate Court, Dharapuram, to the file of any Magistrate Court at Coimbatore for disposal as per law.

2. The respondent has levied the Maintenance case in M.C.No.23 of 2015 against the petitioner and the same is pending on the file of the Judicial Magistrate Court, Dharapuram.

3. From the materials placed on record it is found that various proceedings had been pending between the parties concerned and it is found that the respondent has levied G.W.O.P. No.143/17 seeking the custody of the minor children and the abovesaid proceeding had been settled between the parties through mediation and it is noted that the respondent has been given visitation rights to meet her children at Coimbatore. On that basis, it is put forth by the petitioner that since the respondent is appearing before the District Court, Coimbatore to see her children, it would be convenient to the petitioner as well as the respondent if the maintenance case levied by the respondent is transferred to the file of the Magistrate Court at

Coimbatore and on that basis, the Criminal Original Petition has been levied seeking for transfer of the maintenance case.

4. However, when it is noted that the respondent is admittedly residing at Dharapuram, Erode District and on that basis it is seen that the respondent has levied the maintenance case against the petitioner on the file of the Judicial Magistrate Court, Dharapuram, in such view of the matter, when the respondent has been driven to the necessity of seeking maintenance from the petitioner, in such circumstances, if the respondent is directed to prosecute the matter in the Coimbatore Court as prayed for by the petitioner, definitely, the respondent would be put to immense loss and hardship. On the other hand, considering the status of the petitioner, it is found that no serious prejudice would be caused to the petitioner if he is directed to defend the maintenance case at Dharapuram Court. Merely because the respondent has been granted the visitation right to meet her children at Coimbatore on a particular date in a month, that by itself would not be a ground for transferring the maintenance case levied by the respondent to the file of the Magistrate Court at Coimbatore.

5. No other valid reason has been projected by the petitioner for seeking the transfer of the maintenance proceeding from the Judicial Magistrate Court, Dharapuram to the file of the Magistrate Court at Coimbatore.

6. In the light of the abovesaid factors, I do not find any merit in the Criminal Original petition. Resultantly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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Copy to

1. The Judicial Magistrate Court, Dharapuram

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SP(28/10/2020)