



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2020

CORAM:

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

Crl.O.P. (MD)No.6203 of 2016

and

Crl.M.P. (MD)No.3088 of 2016

Sivabalan

... Petitioner

Vs.

1.Janaki Vellaiammal

2.Minor.Mahadharshini

(represented through her mother, the 1st respondent)

... Respondents

PRAYER: Criminal Original Petition filed under Section 407 Cr.P.C., to withdraw the case in M.C.No.9 of 2015 from the file of the Judicial Magistrate, Vadipatti and transfer the same to the file of the Judicial Magistrate, Nilakottai for trial.

For Petitioner	: Mr.D.Venkatesh
For Respondents	: No Appearance

ORDER

The petitioner herein is the respondent in M.C.No.9 of 2015 on the file of the Judicial Magistrate, Vadipatti. Maintenance petition under Section 125 Cr.P.C., filed by the wife on herself and on behalf of the minor child, Mahadharshini.

2.The petitioner contesting the maintenance case contended that the petitioner and the first respondent has dissolve their marriage as per customary procedure and in to the effect that H.M.O.P.No.57 of 2015 before the Sub-Court, Dindigul for divorce by mutual concerned was filed. However, due to non-appearance of the first respondent herein, the said petition was dismissed.

3.The petitioner herein seeks transfer of the case from Judicial Magistrate, Vadipatti to Judicial Magistrate, Nilakottai on the ground that on 27.11.2015, when he went to Magistrate Court to attend the case, the first respondent along with her brother and henchmen threatened him to withdraw the counter and demanded a sum of Rs.2,00,000/- or else he will be murdered. Due to the threat faced at the hands of the first respondent's brother, the petitioner



has given complaint to the Superintendent of Police, Dindigul on 28.11.2015 and has filed the present transfer petition.

4.This Court, on 22.04.2016 granted an order of interim stay of further proceedings in M.C.No.9 of 2015 on condition that the petitioner to deposit a sum of Rs.3,000/- per month to the credit of M.C.No.9 of 2015 as interim maintenance to the minor child without prejudice to the defence of the petitioner. Thereafter, an attempt was made to resolve the dispute through mediation centre, but could not rectify. This Court, on 27.09.2018 has enhanced the interim maintenance to the second respondent from Rs.3,000/- to Rs.4,000/- per month. When the matter is taken up today for final disposal there is no representation for the respondent.

5.The learned counsel for the petitioner would submit that if the case is transferred from Judicial Magistrate, Vadipatti to any other Court, the fear of intimidation at the hands of the first respondent and her brother will be removed and he can participate in the trial without any fear. The learned counsel emphasis to show his *bonofide*, he regularly pay the interim maintenance as directed by this Court and he has no intention to delay the the process.

6.After considering the averment made in the transfer petitioner and after ascertain from the learned counsel for the petitioner that the first respondent, who is working as Staff Nurse in the Government Hospital, presently working somewhere around Madurai, this Court is of the view that the case may be transferred to neutral place for fair trial.

7.Accordingly, the Judicial Magistrate, Vadipatti shall transfer the case in M.C.No.9 of 2015 to the file of the Judicial Magistrate No.I, Madurai, forthwith on receipt of this order. Judicial Magistrate No.I, Madurai shall receive the papers and cause notice to the parties and complete the enquiry, within a period of four months from the date of receipt of the records. This criminal original petition is disposed of, accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar(CS)

gns



To

1.The Judicial Magistrate,
Vadipatti.

2.The Judicial Magistrate No.I,
Madurai.

+1 CC to M/s.D.VENKATESH, Advocate (SR-9704[F] dated 03/03/2020)

Cr1.O.P. (MD) No.6203 of 2016

SS (CO)

TR(13.03.2020) 3P 4C