



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2021

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.5650 of 2021

and

Cr1.M.P.No.3631 of 2021

E.D.Venkatasubramanian

Rep. By PoA

... Petitioner/ Respondent

Vs.

G.Manju

W/o. E.D.Venkatasubramanian

...Respondent/ Petitioner

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to withdraw the case in DVC.No.96 of 2018 pending filed before the Additional Mahila Court, Egmore and to transfer the same to the file of the II Additional Family Court, Chennai.

For Petitioner : Mr.R.S.Vaideeswaran

For Respondent : Mr.G.B.Shivabharathy

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed to withdraw the case in DVC.No.96 of 2018 filed before the Additional Mahila Court, Egmore and to transfer the same to the file of the II Additional Family Court, Chennai.

2. The petitioner is the respondent in DVC.No.96 of 2018, which is pending trial before the Additional Mahila Court, Egmore, Chennai and he requested to transfer the same to the file of the Second Additional Family court, Chennai, wherein MC.No.280 of 2019 is pending.

3. The contention of the learned counsel for the petitioner is that after marriage, there was a misunderstanding between the petitioner and the respondent and thereafter, the respondent had lodged a complaint before the Police against the petitioner's parents and sister in in Domestic Violence case. The Trial Court found that no case was made against the petitioner's parents and sister and they were discharged from the case. The respondent is not permitted the petitioner to access her daughter Mayurika. In the Domestic Violence case, the petitioner was ordered to pay an interim maintenance to both the baby Mayurika and the respondent. Not being satisfied with the same, she filed a



case in MC.No.280 of 2019 for interim and permanent maintenance, which is pending before the learned Second Additional Family Court, Chennai. Further, he submitted that if both cases are tried separately, it may lead to multiplicity of proceedings, apart from the miscarriage of justice. It would be appropriate to try both the cases together. Further, as per Section 26 of the Domestic Violence Act, any relief has been obtained by the aggrieved person in family Court or Criminal Court or Civil Court, in this case, it arises in the Family Court. In view of the same, transfer of the Domestic Violence case is permissible and it would not cause any prejudice to the respondent.

4. The respondent filed a counter stating that the petitioner had left Chennai and working in Hangkong and he is not attending both the Domestic Violence Case and Sessions case before the respective Courts from November 2019. Further, a sum of Rs.63,000/- is pending payment towards arrears of interim maintenance. The II Additional Family Court, Chennai had passed the interim order with consent of the petitioner and directed him to pay a sum of Rs.3000/- for both the respondent and her minor child. During the year 2020, he came back to India and given a Power of Attorney to his father and now his father represents as Power of Attorney. The transfer petition is filed to prolong and drag the proceedings. Without Cross examination of P.W.1, the Domestic Violence case is pending. The petitioner is liable to pay a sum of Rs.39,000/- in Maintenance Case and Rs.53,000/- in Domestic Violence Case, totalling Rs.92,000/-.

5. The respondent has to take care of the minor daughter, who is now studying in first standard, and she has to pay the school fees and other expenses and hence, the petitioner he has to pay the outstanding amount.

6. The learned counsel for the petitioner submitted that the petitioner now undertakes to pay the interim maintenance as ordered in both cases i.e., Maintenance Case and Domestic Violence Case within a period of two weeks from the date of normal functioning of the Court.

7. Considering the same, this Court is inclined to transfer the case from the Mahila Court, Egmore, Chennai to II Additional Family Court, Chennai and both the cases to be tried together and dispose of both the case at the earliest, preferably within a period of six months from the date of normal functioning of the Court.

In the result, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(cs)



dh
To

- 1.The Judge, Additional Mahila Court, Egmore
- 2.The Judge, II Additional Family Court, Chennai

+2ccs to Mr.R.S.Vaideeswaran, Advocate SR.No. 30646

Cr1.O.P.No.5650 of 2021

SKY (CO)

A.SK(02.08.2021)