

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29-03-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.No.120 of 2021

And

C.M.P.No.3803 of 2021

S.Anupriya

.. Petitioner

vs.

V.Rajesh

.. Respondent

PRAYER : Transfer CMP is filed under Section 24 of the Civil Procedure Code to withdraw the proceeding in HMOP No.348 of 2018 on the file of the learned Subordinate Court at Tambaram and transfer the same to the Family Court at Chennai.

For Petitioner : Mr.Rajendran Raghavan

For Respondent : Mr.V.R.Kamalanathan

O R D E R

The petition for transfer is filed to transfer the HMOP No.348 of 2018 pending on the file of the Sub Court at Tambaram to the file of the Family Court at Chennai.

2. The petitioner is the wife and the respondent is the husband in the present Transfer Civil Miscellaneous Petition.

3. The marriage between the petitioner and the respondent was solemnised on 16.09.2015 as per Hindu Rites and Customs. Several allegations are raised between the parties. However, those allegations are to be tried before the Competent Court based on the documents and evidences produced by the respective parties.

4. As far as the transfer petition is concerned, the learned counsel for the petitioner, at the first instance, made

a submission that still the petitioner and the child are affectionate towards the respondent-father and they are willing for resumption of matrimonial home.

5. In view of the expression made in this regard, this Court directed the parties to be present and find out the fact regarding the submission.

6. Pursuant to the orders of this Court, the petitioner along with the child and the respondent are present.

7. The petitioner, in clear terms, realised that she too had committed certain mistakes due to the ill-advice of some persons and even based on certain erroneous legal advice and she is willing to live with the respondent happily. Even she expressed her willingness to ask apology with the respondent and she is much interested in taking care of the child.

8. The unconditional apology and the realisation of mistakes by the petitioner were also expressed before this Court in the presence of the respondent-husband. However, the respondent-husband is going on narrating the past incidences, which caused certain issues. He is going on speaking about the past and attempting to avoid re-union.

9. When this Court specifically said that the petitioner and the respondent are young and they have to think about the present and future and the interest of the child, the petitioner-wife is ready to live with the respondent in a peaceful manner along with the child and even she says that she withdraws all the petitions filed against the respondent and she did not indulge in any such activities in future and she will be the dutiful wife to the respondent, in spite of the submissions made by the petitioner before this Court, in the presence of the respondent, the respondent has no mood to listen to the words of the petitioner and contrarily, he is interested in taking the petitioner wife by reminding the past incidences, which are to be forgotten by the parties in the interest of the family.

10. Disputes may be there in every family. Disputes may come and disappear, but the husband and wife in a matrimonial life should realise that only unity will provide happiness and quality of life. As age grows, the bonding will be thickened and they will realise that they need a company at the later stage.

11. It is easy to throw allegations against each other. It is easy to accuse the other person in one way or the other. However, one should realise that such cases would not in any manner be helpful for future and rather it will cause ill-effects, more specifically, in future life. Thus, in every case,

constitution of a family is an institution. Matrimonial institution is a sacrosanct child born. Interest of the child is to be protected. Both the father and the mother has got duty towards the child and duty towards the society at large.

12. Good individual and the good family alone can create a good society and only if good society is created, we can think of a better Nation and therefore, every citizen should realise that the protection of matrimonial institution is of paramount importance for the welfare of the society at large and for the welfare of our Great Nation and to protect the cultural values and discipline are to be maintained in the personal life. If they fail to realise those aspects, undoubtedly, the same would result in greater agony and the life will become tedious and meaningless.

13. Emotional decisions would cause many issues in life. Even if emotion plays a role, the man should learn how to control emotions and lead peaceful life in the interest of the family.

14. When all these consequences are explained by this Court to the petitioner and the respondent and the petitioner completely realised her mistakes and expressed her willingness for resuming matrimonial home, the respondent is consistently adamant and not willing for any such re-union, which shows that he is having not only prejudiced mind, but also not interested for resumption of matrimonial home. Such an attitude of the respondent not forgiving the wife is certainly not in the interest of the family.

15. Every man is committing mistake one way or the other in the life. However, if he realised his mistakes and ready to correct himself, then opportunity must be given, so as to lead a happy life.

16. In the present case, the petitioner has realised and ready for re-union, however, the respondent is not willing to forgive and continue to live in the agony. Such a stand cannot be appreciated by this Court and he is expected to change his mind and try to resume the matrimonial home both in the interest of the matrimonial institution and more specifically for the well being of the child aged about five years and affectionate towards his father.

17. The allegations raised in the transfer petition deserves no adjudication from the hands of this Court at this juncture. However, it is contended on behalf of the petitioner-wife that before the Sub Court, Tambaram, they are not getting opportunity for conciliation proceedings as the petitioner is

keen in re-union and the child is also wants the love and affection of the father, an opportunity is to be provided to the parties for effective conciliation and mediation for the purpose of re-union and more specifically by forgetting the past incidences.

18. It is always true that a man cannot live in the past. Everybody is expected to live in the present. Of course, one can dream about their future, but the reality of present must be realised by the parties and they should take all efforts to lead a happy life for their interest as well as for the interest of the society. Every family has got a duty towards the society and therefore, we hope that differences and certain past incidences are to be forgotten and they should look forward their future and the well being of the child, which requires a peaceful and happy atmosphere.

19. This being the facts and circumstances, this Court is of the considered opinion that an opportunity must be provided to the parties to have effective mediation or conciliation, which is to be provided and in this regard, the parties may opt to go for mediation in the Mediation Centre of Madras High Court or for the conciliation in the Family Court.

20. Under these circumstances, this Court is of an opinion that the case is to be transferred. Accordingly, HMOP No.348 of 2018 pending on the file of the Sub Court at Tambaram stands transferred to the file of the Family Court at Chennai. Thus, Transfer Civil Miscellaneous Petition No.120 of 2021 is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

SVN

To

1.The Subordinate Judge,
Tambaram.

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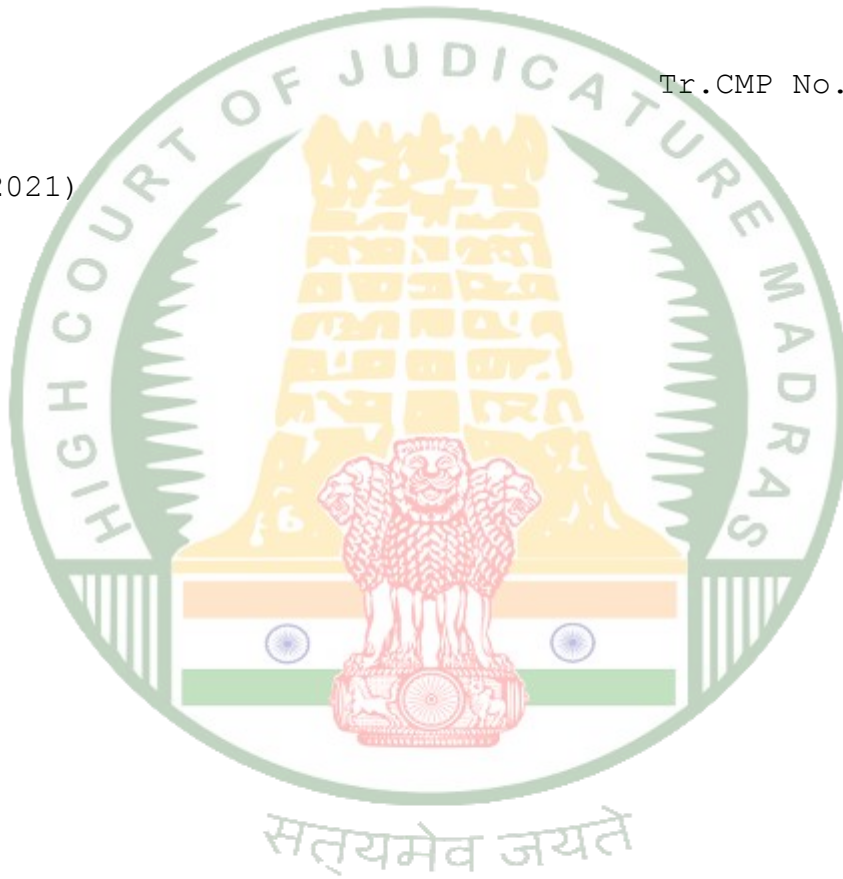
2.The Judge,
Family Court,
Chennai.

+1cc to Mr.Rajendran Raghavan, Advocate, S.R.No.20441

+1cc to Mr.V.R.Kamalanathan, Advocate, S.R.No.20325

Tr.CMP No.120 of 2021

PM(CO)
KM(28/04/2021)



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