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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.10.2021

Pronounced on : 22.11.2021

CORAM:

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

Tr.C.M.P.No.400 of 2021
and
C.M.P.No.9376 of 2021

T.Divya Prabha

...Petitioner

Versus

Raja @ Govindaraj

...Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.200 of 2021, pending on the file of the Family Court, Trichy and transfer the same to the file of any Family Court, Coimbatore.

For Petitioner : M/s.McGan Law Firm

For Respondent : Mr. M. Himavanth

ORDER

[The Case has been heard through video conference]

The present Transfer Civil Miscellaneous Petition is filed praying to withdraw H.M.O.P.No.200 of 2021, on the file of the Family Court, Trichy and transfer the same to the file of Family Court, Coimbatore, where the petitioner presently resides.

2. According to the petitioner, she married the respondent on 04.02.2018 at St. Michael Cathedral at Town Hall, Coimbatore. The marriage was solemnized as per Christian rites and customs. Following the marriage, on the next day on 05.02.2018, a further marriage was conducted as per Hindu rites and customs at Ravi Mini Hall, Trichirapalli. Both the marriage and the ring exchange ceremony were conducted by the parents of the petitioner and the respondent. According to her, it was a love-cum-arranged marriage. It is the contention of the petitioner that soon after the marriage, she was subjected to matrimonial cruelty by her mother-in-law by citing the religion of the petitioner. At the time of marriage, the respondent was working



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in Coimbatore Marine College, as an Assistant Professor. However, at the instigation of his mother, the respondent resigned his job without even discussing with the petitioner. It is further stated that in the month of April 2018, the petitioner became pregnant. During the fifth month of pregnancy, it was noticed that the child in the womb is not normal and therefore, the Doctor advised that the fetus has to be removed. Even during the time of hospitalization, the respondent did not bother to take care of the petitioner rather he went to Trichy to take care of his ailing mother. Ultimately, during hospitalization, the child in the womb was aborted due to medical reasons. During January 2019, the petitioner went to Trichy along with her parents but was shocked to find that the respondent was in Chennai to write exams without even informing her. At that time, the mother-in-law of the petitioner did not speak to her rather she shouted towards the petitioner and her mother purportedly to give up rituals followed by the petitioner under Christianity. In effect, it is the grievance of the petitioner that her mother-in-law was instrumental for the matrimonial dispute between her and the respondent. Even the petitioner and the respondent went to a counseling center in Trichy to get counseling for their matrimonial dispute, however, nothing could be rectified. Thereafter, the respondent, during second week of May 2019 asked the petitioner to come and join him at Chennai to sought out the differences by mutual dialogue and accordingly, the petitioner met the respondent at Chennai. He assured to resolve the dispute between them and therefore, the petitioner stayed with him for a month. However, differences cropped up between the couple and therefore, the petitioner came back to Trichy and taken up her carrier in teaching. The petitioner also referred to several communications between her and the respondent to contend that it was the respondent and his mother who are instrumental for their separation. During November 2020, the petitioner proceeded to Coimbatore to take care of her ailing mother, with the permission of the respondent. However, when she went back to the matrimonial home at Trichy, she was not permitted to step inside the matrimonial home, by her mother-in-law. Therefore, the petitioner returned to Coimbatore and from then on staying with her parents there. It is her contention that all her belongings, such as dresses, jewels, double cot and bureau and other household items are with the respondent.

3. While facts are so as stated at above. On 27.03.2021, the petitioner received a notice containing false allegation. On receipt of such notice only he came to know that the respondent has filed H.M.O.P.No.200 of 2021 before the Family Court, Trichy seeking divorce on the grounds of cruelty. According to the petitioner, it was the respondent and her mother, who have subjected her to cruelty and the allegations in HMOP No. 200 of 2021 are per se false and motivated.



4. The learned counsel for the petitioner submitted that the petitioner being a female could not travel alone to Trichy for every hearing, in connection with the H.M.O.P.No.200 of 2021 filed by the respondent. It is also stated that at the instance of the respondent, the petitioner apprehend that she will be threatened and humiliated by the persons associated with the respondent at Trichy. Further, the petitioner is working at Coimbatore and she has to take care of her ailing parents. For every hearing, the petitioner may have to travel for about 5 hours to cover 250 kms from Trichy to Coimbatore and again return back to Coimbatore covering another 250 kilometers. Thus, in all, the petitioner has to travel atleast 500 kms to attend the court proceedings in H.M.O.P.No.200 of 2021. Therefore, the learned counsel for the petitioner prayed this Court to allow this Transfer Civil Miscellaneous Petition as prayed for.

5. The learned counsel for the respondent submitted that it was the petitioner, who has inflicted matrimonial cruelty on the respondent. It is his contention that his parents are aged. His father is 76 years old and his mother is aged 66 years. His parents are suffering from various medical ailments in their advanced age. According to the counsel for the respondent, the averments that the parents of the respondent did not allow the petitioner to follow the Christian rituals are absolutely false. The child in the womb was aborted due to reasons which are beyond the control of the petitioner or the respondent. The medical complications has resulted in the abortion of the child in the womb and it has got nothing to do with the petitioner or the matrimonial dispute between the parties. The petitioner did not return to the matrimonial home in spite of many demands made by the respondent. In fact, as requested by the petitioner a rental accommodation was taken at Anna Nagar, Trichy where the petitioner and the respondent resided for some time. Even such stay did not last long as the petitioner went to her matrimonial home during June. Again during November 2020, she, on her own, returned to the matrimonial home at Trichy. The petitioner did not respect the father and mother of the respondent. She has scant regard towards his aged parents. The petitioner's conduct is also suspicious as she, very often secretly touring with her boy friend and it is for this reason there were disputes cropped between them very often. Notwithstanding the same, the counsel for the respondent submits that the averments raised by the petitioner in the affidavit filed in support of the Transfer Civil Miscellaneous Petition are false and misleading. The learned counsel for the respondent submitted that the respondent has to take care of his aged parents and in that event, it will be difficult for him to travel between Trichy and Coimbatore. He therefore prayed for dismissal of the this Petition.

6. Heard the learned counsel on either side and perused the materials placed on record.



7. Whenever a transfer is sought, particularly in matrimonial proceedings, the Court would weigh the convenience of the parties, particularly the wife. In this case, the petitioner is residing at Coimbatore and she has to attend the hearing of the case at Trichy. For this purpose, she is required to travel at least 500 kms, up and down, for every hearing. On the other hand, the respondent who is residing at Trichy, being a male, can have no hassle to travel to Coimbatore, in the event of the case being transferred. Therefore, weighing the convenience of the parties and the facts and circumstances of this case, this Court of the view is that the Transfer Civil Miscellaneous Petition deserves to be allowed, by withdrawing and transfer the H.M.O.P.No.200 of 2021, from the file of Family Court, Trichy to the file of the Family Court, Coimbatore.

8. This Court feels it appropriate to direct the Family Court, Coimbatore, not to insist upon the personal appearance of the respondent, except during the enquiry stage or any day, when their personal appearance is required.

9. Accordingly, with the above observation, this Transfer Civil Miscellaneous Petition is allowed. Consequently, HMOP No. 200 of 2021 is ordered to be withdrawn from the file of the Family Court, Trichy and it stands transferred to the file of any Family Court, Coimbatore. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gbi

To:

1. The Judge,
Family Court, Trichy.
2. The Judge,
Family Court, Coimbatore.

+1cc to M/s.McGan Law Firm, Advocate, S.R.No.60350

Tr.C.M.P.No.400 of 2021

PL[co]
NSK 06/12/2021