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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRIMINAL O.P.NO.23374 OF 2019

AND

CRIMINAL M.P.NO.12276 OF 2019

M.Mohankumar

...Petitioner

-Vs-

1. G.Ranjitha

2. Minor Kanishka

Minor by her guardian First Respondent
Both residing at
No.2/20A, Kallankulam
R.Pudupalayam Post
Rasipuram Taluk
Namakkal District.

...Respondents

This Criminal Revision Petition is filed under Section 407 Cr.P.C. to call for the records relating to the Case pending in M.C. No. 16 of 2018 on the file of the learned Judicial Magistrate, Rasipuram to the Court of Family Judge, Namakkal to be tried along with F.C.O.P. No. 253 of 2018.

For Petitioner : Mr.M.Subash Babu

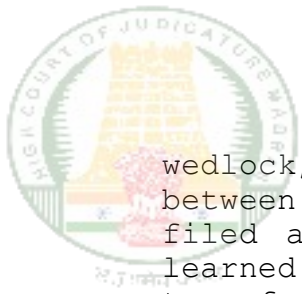
For Respondents : Mr.R.Surya Kumaran

O R D E R

This petition has been filed seeking to transfer the case in M.C. No. 16 of 2018 on the file of the learned Judicial Magistrate, Rasipuram to the Court of Family Judge, Namakkal to be tried along with F.C.O.P. No. 253 of 2018.

2. The facts of the case are as follows:

The petitioner and the first respondent are husband and wife and their marriage was took place in the year 2014. out of such



wedlock, the second respondent was born. Due to misunderstanding between the spouses, they were living separately. The petitioner filed a petition for restitution of conjugal right before the learned Subordinate Judge, Namakkal and later, the same was transferred to the Family Court, Namakkal and renumbered as FCOP. No.253 of 2018. In the meantime, the first respondent has filed a divorce petition before the Subordinate Judge, Rasipuram in HMOP No.39 of 2018 and also filed a transfer petition in OP No.74 of 2018 to transfer the divorce petition filed by the first respondent and to be tried along with the restitution of conjugal rights petition filed by the petitioner. The said transfer petition is pending before the Principal District Judge, Namakkal. Hence, the petitioner filed the present petition before this court to transfer the maintenance case filed by the first respondent from the file of the learned Judicial Magisterial, Rasipuram to the file of the Family Court, Namakkal.

3. The learned counsel for the petitioner submitted that the first respondent has already filed a transfer petition for transferring a divorce petition from the file of Subordinate Judge, Rasipuram to the file of Family Court, Namakkal. Hence, the learned counsel prays to transfer the maintenance case from the file of the learned Judicial Magistrate, Rasipuram to the file of the Family court, Namakkal. The learned counsel further submitted that if the case is transferred, the petitioner is ready to pay the traveling expenses to the respondents as fixed by this Court.

4. The learned counsel for the respondents submitted that the first respondent has no objection to transfer the maintenance case from the Judicial Magistrate, Rasipuram to the file of the Family Court, Namakkal.

5. Heard the learned counsel on bothsides and perused the materials available on record.

6. Considering the convenience of the parties, the respondent has no objection and in order to avoid conflicting orders, this Court is inclined to withdraw the maintenance case in M.C.No.16 of 2018, pending on the file of the learned Judicial Magistrate, Rasipuram and to transfer to the file of the learned Family Court, Namakkal. The learned Judicial Magistrate, Rasipuram is directed to immediately hand over the entire case records in MC.No.16 of 2018 to the file of the learned Family court, Namakkal and to be tried along with connected matters. Further, the petitioner is directed to pay a sum of Rs.2,000/- (Rupees Two thousand only) to the respondents for each and every hearings toward traveling expenses.



7. With the above observation, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Rasipuram.
2. The Judge,
Family Court ,
Namakkal.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.M.Subash Babu, Advocate, S.R.No.39709

+1cc to Mr.R.Surya Kumaran , Advocate, S.R.No.39985

Criminal O.P. No. 23374 of 2019
and
Criminal M.P. No. 12276 of 2019

SJ(CO)
PM/22/11/2021