

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.29547 of 2018

And

Crl.M.P.No.17347 of 2018

B.Venkatesan

... Petitioner

Vs.

Y.Lavanya

... Respondent

Prayer:

Petition filed under Section 407 r/w. 482 of Cr.P.C., seeking to withdraw the case in MC No.358 of 2018 from the file of V Additional Family Court, Chennai and transfer the same to the file of Judicial Magistrate Court, Poonamalle.

For Petitioner : Mr.R.Prabakar

ORDER

The petitioner has filed this petition seeking to withdraw the case in M.C.No.358 of 2018 from the file of V Additional Family Court, Chennai and to transfer the same to the file of Judicial Magistrate Court, Poonamalle.

2.The facts of the case is that the petitioner and respondent are husband and wife. The petitioner filed petition seeking divorce in H.M.O.P.No.301 of 2016 before the Subordinate Court at Poonamallee. Thereafter, the respondent filed H.M.O.P.No.3533 of 2017 seeking restitution of conjugal rights before the IV Additional Family Court, Chennai. Hence, the petitioner filed Tr.C.M.P.No.986 of 2017 before this Court seeking to transfer H.M.O.P.No.3533 of 2017 to the file of Subordinate Court at Poonamalle for joint trial. Thereafter, the respondent filed Tr.C.M.P.No.1046 of 2017 before this Court seeking to transfer H.M.O.P.No.301 of 2016 to the file of Family Court, Chennai. Thereafter, both the transfer petitions were taken together and Tr.C.M.P.No.986 of 2017 filed by the petitioner was ordered and H.M.O.P.No.3533 of 2017 was transferred to Subordinate Court at Poonamalle and renumbered as H.M.O.P.No.466 of 2018 on the file of Sub Court, Poonamalle. Thereafter, the respondent has filed M.C.No.358 of 2018 before the V Additional Family Court, Chennai. Hence, this petition.

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3.The learned counsel appearing for the petitioner would submit that the petitioner is working as Technician in the Southern Railways, which is an essential service and he is not able to appear before the

Family Court at Chennai. He further submitted that already this Court has directed the petitioner to pay a sum of Rs.300/- to the respondent for attending each and every hearing before the Sub Court, Poonamalle. Hence, if this Court transfer M.C.No.358 of 2018 to the file of Judicial Magistrate Court, Poonamalle, the petitioner is ready to bear the reasonable amount to be imposed by this Court.

4.The facts in the case is not disputed. The petitioner has filed petition seeking divorce in H.M.O.P.No.301 of 2016 before the Subordinate Court at Poonamallee. Thereafter, the respondent filed H.M.O.P.No.3533 of 2017 seeking restitution of conjugal rights before the IV Additional Family Court, Chennai. Thereafter, the petitioner filed Tr.C.M.P.No.986 of 2017 before this Court seeking to transfer H.M.O.P.No.3533 of 2017 to the file of Subordinate Court at Poonamalle for joint trial and the respondent filed Tr.C.M.P.No.1046 of 2017 before this Court seeking to transfer H.M.O.P.No.301 of 2016 to the file of Family Court, Chennai. Both the transfer petitions were taken together and Tr.C.M.P.No.986 of 2017 filed by the petitioner was ordered and H.M.O.P.No.3533 of 2017 was transferred to the file of the Subordinate Court at Poonamalle and renumbered as H.M.O.P.No.466 of 2018.

5.Further, the petitioner is ready to pay a reasonable amount to the respondent for attending each and every hearing before the Judicial Magistrate Court, Poonamalle. Hence, no prejudice will be caused to the respondent if M.C.No.358 of 2018 is transferred to the file of Judicial Magistrate Court, Poonamalle.

6.In view of the above, M.C.No.358 of 2018 is ordered to be withdrawn from the file of V Additional Family Court, Chennai and transferred to the file of Judicial Magistrate Court, Poonamalle for simultaneous trial along with H.M.O.P.No.301 of 2016 and H.M.O.P.No.3533 of 2017. The petitioner is directed to pay a sum of Rs.2,000/- to the respondent for attending each and every hearing.

7.This criminal original petition is accordingly allowed with above terms. Consequently, the connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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To

1.The V Additional Family Court,
Chennai.

2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



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M.DHANDAPANI,J.
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