



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

CrI.O.P.(MD)No.1766 of 2021

CRL.M.P(MD).Nos.872 & 873 of 2021

Priya

... Petitioner/Respondent

Vs.

Minor.Vikash

Represented by his alleged guardian
and paternal grand father

Karupppanan

...Respondents/Petitioner

PRAYER : Criminal Original Petition is filed under Section 407 of Cr.P.C, to withdraw the Maintenance case in M.C.No.13 of 2016 from the file of the Judicial Magistrate Court, Thirumangalam and to transfer the same to the file of any of the Judicial Magistrate Courts, Erode.

For Petitioner

: Mr.J.Barathan

For Respondents

: Mr.N.Ananatha Padmanaban

O R D E R

This Criminal Original Petition has been filed to withdraw the Maintenance case in M.C.No.13 of 2016 from the file of the Judicial Magistrate Court, Thirumangalam and transfer the same to the file of the Judicial Magistrate Courts, Erode.

2. The case of the prosecution is that the marriage between the petitioner and the father of the first respondent was solemnized on 08.03.2009 at Thirumangalam. After few days of the marriage, the disputes arose between the husband and wife. As a result of which, H.M.O.P.No.118 of 2013 has been filed before the Sub-ordinate Court, Theni under Section 13B of the Hindu Marriage Act, 1955.

3. During the course of arrangement between the parties, it was agreed that the minor will be in the custody of the father. Thereafter, the petitioner got married with another man and she is settled with the new family. At the instigation of the father of the minor, a case in M.C.No.13 of 2016 came to be filed by the grandfather of the respondent and the same was challenged before this Court which came to be dismissed in CrI.O.P(MD).No.11565 of 2017. The petitioner is now residing at Erode and she is not in a position to travel from Erode to Thirumangalam along with her 1 ½



year old child. Hence, the present petition has been filed.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that no doubt, there was some contentious issue which is to be resolved in the main petition. Further, the petitioner has got married after getting divorce from the father of the respondent and she is living with her child, which is born out of second marriage at Erode. Hence, she is not in a position to travel from Erode to Thirumangalam all along.

6. The learned counsel appearing for the respondent would submit that the grandfather of the respondent is aged about 75 years and he cannot travel from Thirumangalam to Erode to attend the case. He would further submit that instead of Erode, the case may be transferred to Karur, which is midway between Erode and Thirumangalam.

7. Considering the facts and circumstances of the case as well as the positions of the petitioner as well as the guardian of the minor, the entire proceedings which is pending in M.C.No.13 of 2016 on the file of the learned Judicial Magistrate Court, Thirumangalam is transferred to the learned Judicial Magistrate No.1, Karur. The learned Judicial Magistrate, Thirumangalam is directed to transmit the case bundle immediately after receipt of the order copy. On receipt of case bundle, the learned Judicial Magistrate No.1, Karur is directed to assign new number and sent notice to both parties, fixing a date for appearance.

8. With these directions, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1. The Judicial Magistrate, Thirumangalam

2.The Judicial Magistrate No.1, Karur.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-24115[F] dated
28/07/2021)

Crl.O.P. (MD)No.1766 of 2021
27.07.2021

MGJ(05.08.2021) 3P 4C