



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.74 of 2021

and

C.M.P. (MD) No.1374 of 2021

WEB COPY

M.Priyanka

... Petitioner/Respondent

Vs.

P.Balakumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw the HMOP No.394 of 2020 on the file of the Subordinate Court, Tambaram and to transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.R.Narayanan

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the HMOP No.394 of 2020 on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Family Court, Madurai.

2.The learned counsel for the petitioner would submit that the petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 16.05.2019 at A.S.R Marriage Hall, Madurai, as per the Hindu Rites and Customs. At the time of marriage, the parents of the petitioner gifted 70 sovereigns of gold jewels to the petitioner and 12 sovereigns of gold jewels to the respondent and 1 kg. of silver vessels and house hold articles worth about Rs.7,00,000/- (Rupees Seven Lakh) were given as Sridhana. The parents of the petitioner had spent about Rs.10,00,000/- (Rupees Ten Lakh) as marriage expenses and also fulfilled the demand of the respondent and his parents for the sake of happy marriage life.

3.After the marriage, the respondent's parents and sister have seriously misbehaved with the petitioner and demanded additional 30 sovereigns and also demanded a car to the respondent. The father of the petitioner had purchased a Volks Wagen car bearing Registration No.TN 59 CD 1419 to the respondent and thereafter, the respondent and his parents demanded another Rs.3,00,000/- (Rupees Three Lakh) as dowry and Rs.50,000/- for car maintenance. The respondent's family also insisted the



petitioner to transfer the ownership of car to the respondent's father's name.

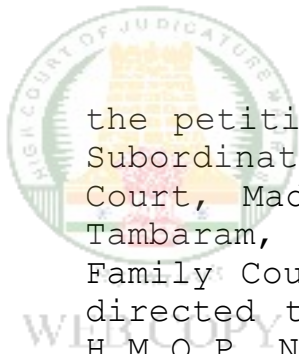
4. In the mean while, the petitioner became pregnant and she came back to her parental home and delivered a male child on 14.03.2020. Despite the information given by the parents of the petitioner neither the respondent nor his parents turned up to see the child. Since the respondent did not allow the petitioner for reunion, the petitioner had filed a police complaint at All Women Police Station, Tallakulam, Madurai. But the respondent and their family members had not appeared for police investigation and filed an application for Anticipatory Bail and the matter was referred for mediation and during the mediation, the respondent expressed that he is ready for reunion and undertook to live with the petitioner in the matrimonial home. However, the respondent failed to keep-up the undertaking given before the mediation. Hence, the petitioner having no other option filed a petition for restitution of conjugal rights in HMOP No.858 of 2020 on the file of Family Court, Madurai. In the mean while, the respondent has also filed a petition for divorce in HMOP No.394 of 2020 on the file of the Subordinate Court, Tambaram. The petitioner being the mother of a suckling child finds it difficult to travel all the way from Madurai to Chennai to attend the Court hearings and the parents of the petitioner are also sick and they are unable to accompany with the petitioner.

5. The learned counsel for the petitioner would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration of the inconvenience and the comparative hardship faced by the petitioner/wife and child, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

6. Heard the learned counsel for the petitioner. Despite service of notice and name is printed in the cause list, there is no representation for the respondent.

7. The Hon'ble Apex Court in the case of ***Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap*** reported in ***(2016)14 SCC 356*** held that ***while deciding the transfer of matrimonial proceedings, comparative hardship faced by the wife has to be taken into account***. Further, in the case of ***Amitha Shah Vs. Virendar Lal Shah***, the Hon'ble Supreme Court reported in ***(2003)10 SCC 609*** held that ***the convenience of the wife must be taken into account while deciding the petition for transfer***.

8. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for



the petitioner, HMOP No.394 of 2020 is withdrawn from the file of Subordinate Court, Tambaram and transferred to the file of Family Court, Madurai, for disposal as per law. The Subordinate Court, Tambaram, is directed to transmit the papers to the file of the Family Court, Madurai, forthwith. The Family Court, Madurai, is directed to club the case in H.M.O.P. No.394 of 2020 along with H.M.O.P. No.858 of 2020 together and dispose of the same on merits and in accordance with law as expeditiously as possible.

9.In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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.

To:

1.The Subordinate Court,
Tambaram.

2.The Family Court,
Madurai.

Tr.C.M.P. (MD) No.74 of 2021
06.09.2021

SJ(CO)
SB(17.09.2021) 3P 3C