



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.242 of 2021

and

C.M.P. (MD)No.4685 of 2021

WEB COPY

Santhi

... Petitioner/Respondent

-vs-

Nandhakumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw the case on the file of the Family Court, Coimbatore in HMOP No.471 of 2021 and transfer the same to the Sub Court, Kovilpatti.

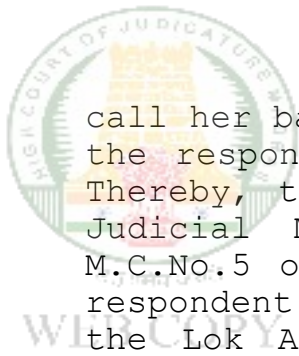
For Petitioner : Mr.V.Muthukamatchi

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the Family Court, Coimbatore in HMOP No.471 of 2021 and transfer the same to the Sub Court, Kovilpatti.

2.The learned counsel for the petitioner would submit that the petitioner is the wife. The marriage between the petitioner and the respondent was solemnized on 21.10.2018 at Sri Balathandaiuthapani Temple, Suthiravarpettai, Coimbatore as per the Hindu Rites and Customs. Prior to that, the engagement was conducted at Kovilpatti in the parental home of the petitioner on 12.09.2018. At the time of engagement and marriage totally 10 sovereigns of gold, cash of Rs.15,000/- and household articles worth about Rs.60,000/- were given to the respondent as marriage Sridhana. After the marriage, the petitioner and the respondent settled their matrimonial house at Coimbatore in the respondent's house. Initially, the relationship was cordial and later, the respondent and his family members started demanding additional amount of Rs.2,00,000/- as dowry and also demanded the petitioner to bring additional jewels from her parental home. Since the petitioner and her parents were unable to comply with the undue demand, the petitioner was ill treated and treated as slave in the house of the matrimonial home on 17.11.2018. The respondent invited a quarrel and slapped the petitioner and physically abused her and after taking away the jewels had driven her out of the matrimonial home. The petitioner and her parents were under the fond hope that the time will heal and that he would



call her back to the matrimonial home, whereas, he did not do so and the respondent did not take care to maintain the petitioner also. Thereby, the petitioner had filed DVOP petition before the learned Judicial Magistrate No.II, Kovilpatti and she has also filed M.C.No.5 of 2020 claiming maintenance before the same Court. The respondent appeared in both the cases and the case was referred to the Lok Adalat, but the respondent did not co-operate with the settlement and it is also ended in failure. The learned counsel would further submit that the petitioner's parents are not well off and that due to their old age and ill health, they are facing huge financial difficulties to meet their day-to-day expenses and additionally, now they have to bear the expenses of the petitioner also. The learned counsel would further submit that the respondent in order to evade maintenance to the petitioner has filed a petition in H.M.O.P.No.471 of 2021 on the file of the Family Court, Coimbatore for restitution of conjugal rights under Section 9 of the Hindu Marriage Act 1955. The learned counsel would further submit that it is not the real intention to the respondent to take the petitioner back to her matrimonial home and it is only to harass her and to evade payment of maintenance to the petitioner. The learned counsel would further submit that the petitioner is aged about 26 years and that she finds it difficult to travel from Kovilpatti to Coimbatore, which is about 300 kms away and she has no body take care of her at Coimbatore and she has no place to stay at Coimbatore. The learned counsel would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration the convenience and the comparative hardship faced by the petitioner/wife had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

3.Private notice served, proof filed. This Court ordered the counsel for the petitioner to serve notice on the counsel for the respondent appearing before the lower Court and name printed in the cause list, none appeared on behalf of the respondent.

4.The Hon'ble Apex Court in the case of ***Vaishali Shridhar Jagtap.vs. Shridhar Vishwanath Jagtap*** reported in ***(2016)14 SCC 356*** has 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*** has held that ***the convenience of the wife must be taken into account while deciding the petition for transfer.***

5.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No.471 of 2021 is withdrawn from the file of Family Court, Coimbatore and transferred to the file of Sub Court, Kovilpatti for disposal as per law. The Family Court, Coimbatore, is directed to transmit the papers to the file of the Sub Court,



Kovilpatti, forthwith. The Sub Court, Kovilpatti is directed to dispose H.M.O.P.No.471 of 2021 on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjj

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 Family Court, Coimbatore.
- 2.The Sub Court, Kovilpatti.

Tr.C.M.P. (MD) No.242 of 2021
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RD(25.08.2021) 3P 3C