



WEB COPY

Tr CMP (MD) No. 233 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.233 of 2021

and

C.M.P. (MD) No.4372 of 2021

V.M. Gayathri

...Petitioner/Respondent

-vs-

Balakumar

...Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in HMOP.No.52 of 2021 on the file of the Family Court, Karur and try along with the case in HMOP.No.278 of 2019 on the file of Principal Subordinate Court, Kumbakonam.

For Petitioner : Mr. S. Sankar

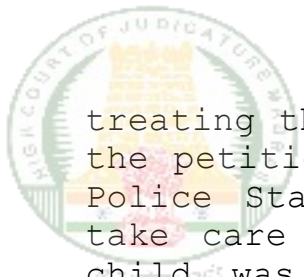
For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to_ withdraw the case in HMOP.No.52 of 2021 on the file of the Family Court, Karur and transfer the same to the file of the Principal Subordinate Court, Kumbakonam to be tried along with HMOP.No.278 of 2019.

2. The learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 03.07.2017 at Thenpalani Andavar Temple, Kumbakonam, as per the Hindu Rites and Customs. At the time of marriage, the parents of the petitioner has given 8 sovereigns of gold jewels to the petitioner and 2 sovereigns of gold jewels to the respondent and further, the parents of the petitioner spent all the marriage expenses and also given household utensils worth about Rs.2,00,000/- to the respondent.

3. The learned counsel would further submit that the matrimonial house set up at Karur. Due to the wedlock, the petitioner gave birth female child on 19.03.2018 at Anbu Hospital, Kumbakonam, unfortunately, the child suffered with nervous problem. The respondent and the parents of the respondent felt disappointed with the petitioner since she had delivered female child with nervous problem. Later, the respondent and his family members frequently quarreled with the petitioner and they started



treating the petitioner with cruelty. Unable to bear the torture, the petitioner earlier has given a complaint before the All Women Police Station, Karur. The respondent and his parents did not take care of her child and give any treatment and hence, the child was died on 17.09.2019 at matrimonial house at Karur. However, the respondent did not allow the petitioner to inform her parents. Later, due to the death of the child, the petitioner has become bed ridden and that the respondent and his family members started harassing the petitioner in an inhuman manner. When the petitioner's parents came to know about the ill treatment to the petitioner they had taken her back to their home. Due to the cruelty committed by the respondent, the petitioner had filed a petition for divorce in HMOP.No.278 of 2009, on the file of the Principal Subordinate Court, Kumbakonam. While the petition for divorce is pending, in order to harass the petitioner, the respondent filed HMOP.No.52 of 2021 seeking for restitution of conjugal rights before the Family Court, Karur.

4. The learned counsel for the petitioner would further submit that the distance between Kumbakonam and Karur is around 300 Kilometers and that the petitioner finds it very difficult to travel from Kumbakonam to Karur to attend each and every hearing in HMOP.No.52 of 2021 on the file of the Family Court, Karur. Due to the loss of child, the petitioner is depressed and she is taken care of by her aged parents. He 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.

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

6.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***, reported in ***(2003)10 SCC 609*** the Supreme Court has held that ***the convenience of the wife must be taken into account while deciding the petition for transfer.***

7.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP.No. 52 of 2021 is withdrawn from the file of



the Family Court, Karur and transferred to the file of the Principal Subordinate Court, Kumbakonam for disposal as per law. The Family Court, Karur, is directed to transmit the papers to the file of the Principal Subordinate Court, Kumbakonam forthwith. The Principal Subordinate Court, Kumbakonam is directed to club the case in HMOP.No.52 of 2021 along with HMOP.No.278 of 2019 together and dispose the same on merits and in accordance with law as expeditiously as possible.

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

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar (CS)

trp

To:

1.The Family Judge, Karur.

2.The Principal Subordinate Judge, Kumbakonam.

Copy to

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

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