



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.267 of 2021

and

C.M.P. (MD) No.5591 of 2021

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Muthumari

... Petitioner

-vs-

Sudalaimuthu @ Kannan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the HMOP No.50 of 2021 from the file of the Family court, Thoothukudi and transfer the same to the Family Court, Tirunelveli or any other Sub Court, Tirunelveli.

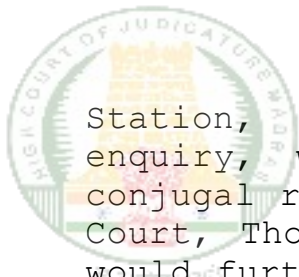
For Petitioner : Mr.K.P. Narayanakumar

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the HMOP No.50 of 2021 from the file of the Family court, Thoothukudi and transfer the same to the Family Court, Tirunelveli.

2. The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 03.09.2017 as per Hindu rites and customs at Athiparasakthi Santhanamari Amman Temple, Thalaimuthunagar, Thoothukudi and at the time of marriage 10 sovereigns of gold jewels, Rs.10000/- cash and household articles were given as dowry. Thereafter the respondent and his family members started demanding additional dowry citing the disease suffered by the petitioner. In the meanwhile the petitioner got pregnant and she also delivered a male child on 02.05.2018. During pregnancy the petitioner was sent back to her parental home and she was affected with epilepsy and the entire medical expenses was paid by the parents of the petitioner. Thereafter the respondent did not bother to take care of the petitioner and the child, thereby the petitioner had filed a complaint before the All Women Police



Station, Palayamkottai, but the respondent did not co-operate for enquiry, whereas he had filed a petition for restitution of conjugal rights in HMOP No. 50 of 2021 on the file of the Family Court, Thoothukudi by suppressing the entire material facts. He would further submit that the case was posted before the Court on 30.03.2021 and when the petitioner appeared before the Court along with her child, the respondent quarreled with the petitioner and snatched the child from her hand. However, due to the intervention of the petitioner's counsel and other people near the place the child was rescued and handed over to the petitioner. The learned counsel for the petitioner would submit that though the distance between Tuticorin and Tirunelveli is not far away the petitioner apprehends risk to her and her child if she attends the Court at Thoothukudi. He would also submit that the intention of the respondent is not genuine and only to harass the petitioner the present petition has been filed. He would further submit that this Court as well as the Honourable Apex Court taking into consideration the convenience and hardship suffered by the wife had ordered to transfer of petition to Court which is convenient to the wife and thereby the present petition has been filed seeking transfer.

3. Heard the learned counsel for the petitioner. Private notice served, proof filed. 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***, reported in ***(2003)10 SCC 609*** the Hon'ble Supreme Court has held that ***the convenience of the wife and moreso of the child 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.50 of 2021 is withdrawn from the file of Family Court, Thoothukudi and transferred to the file of the Family Court, Tirunelveli for disposal as per law. The Family Court, Thoothukudi, is directed to transmit the papers to the file of the Family Court, Tirunelveli forthwith. The Family Court, Tirunelveli, is directed to dispose transferred HMOP No.50 of 2021 on merits and in accordance with law as expeditiously as possible.

6. In the result, this Transfer Civil Miscellaneous Petition is
<https://hcservices.ecourts.gov.in/hcservices/>



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Tr CMP (MD) No. 267 of 2021

allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar (CS)

aav

To:

1.The Family Court, Thoothukudi

2.The Family Court, Tirunelveli

+1 CC to M/s.K.P.NARAYANAKUMAR, Advocate (SR-27456[F] dated 26/08/2021)

Tr.C.M.P. (MD) No.267 of 2021

and

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24.08.2021

PS (CO)

SB(17.09.2021) 3P 4C