



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.276 of 2021

and

C.M.P. (MD)No.5818 of 2021

WEB COPY

A.V.Dharshini

... Petitioner/Respondent

-vs-

P.M.Karthikeyan

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw the divorce petition in HMOP No.159 of 2021 on the file of the Subordinate Court, Poonamallee and to transfer the same to the Family Court, Ramanathapuram to be tried along with the petition for restitution of conjugal rights in HMOP No.99 of 2021.

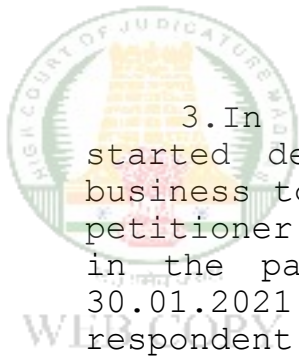
For Petitioner : Mr.J.Barathan

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 Subordinate Court, Poonamallee in HMOP No. 159 of 2021 and transfer the same to the Family Court, Ramanathapuram to be tried along with the petition for restitution of conjugal rights in HMOP No.99 of 2021.

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 05.02.2020 at ABC Mydeen Marriage Hall at Ramanathapuram. as per the Hindu Rites and Customs. At the time of marriage, the parents of the petitioner gifted 59 ½ sovereigns of gold jewels to the respondent. In addition to that, the parents of the petitioner has also paid Rs.5,00,000/- in cash as dowry to the parents of the respondent in lieu of the seervarisai articles. After the marriage, the petitioner and the respondent set up the matrimonial home at Ayapakkam, Chennai with the parents of the respondent. Even from the inception of the marriage life, the mother of the respondent started to humiliate the petitioner with her words. He would further submit that the petitioner also conceived, when she was at the matrimonial home, at that time, neither the respondent nor his parents took care of her.



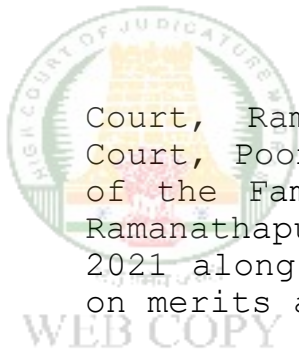
3. In the meanwhile, the respondent as well as the parents started demanding further amount of Rs.20,00,000/- for starting business to the respondent. While so, on the guise of delivery, the petitioner was sent back to her parental home on 17.06.2020. While, in the parental home, the petitioner delivered a baby girl on 30.01.2021. Thereafter, the birth of the child was intimated to the respondent and his parents. However, they have neither contacted the petitioner nor visited the petitioner and child, and they also blocked the mobile number of the petitioner. Despite the efforts taken by the family members to bring about a settlement, the respondent had not contacted the petitioner and her parents. Therefore, the petitioner had filed a petition seeking for restitution of conjugal rights in H.M.O.P.No.99 of 2021 on the file of the Family Court, Ramanathapuram. In the meanwhile, the respondent has also filed a divorce petition in H.M.O.P.No.159 of 2021 before the Subordinate Court, Poonamallee seeking divorce on the ground of cruelty.

4. The learned counsel would further submit that if the respondent comes to Ramanathapuram, there could be a possibility of amicable settlement between them and since the petitioner has recently delivered a child, she finds it very difficult to travel all the way from Ramanathapuram to Poonamallee, which is about 530 kms away from her parental home, her parents are aged and she has nobody to accompany her to Poonamallee and that is nobody there to take care of her at Poonamallee. The learned counsel 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.

5. 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.

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***, 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.***

7. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, HMOP No.159 of 2021 is withdrawn from the file of Subordinate Court, Poonamallee and transferred to the file of Family



Court, Ramanathapuram for disposal as per law. The Subordinate Court, Poonamallee, is directed to transmit the papers to the file of the Family Court, Ramanathapuram, forthwith. The Family Court, Ramanathapuram is directed to club the case in H.M.O.P.No.159 of 2021 along with H.M.O.P.No.99 of 2021 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 (Records)

// 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 Subordinate Judge, Poonamallee.
- 2.The presiding Judge,
The Family Court, Ramanathapuram.

+1 CC to M/s.T.R.JEYABALAM, Advocate (SR-27114[F] dated 24/08/2021)

Tr.C.M.P. (MD) No.276 of 2021
and
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RD(13.09.2021) 3P 4C