



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 09.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.9495 of 2021

and

Crl.MP(MD)No.4841 of 2021

Ravishankar

... Petitioner

Vs.

1.Kavitha

2.Minor R.Jovitha Little Mebal ... Respondents

(Minor second respondent is represented by her mother-Guardian, the first respondent herein)

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the complaint in D.V.C.No.33 of 2017 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Trichy and transfer the petition in D.V.C.No.33 of 2017 which is pending on the file of Additional Mahila Court, Trichy to Additional Mahila Court, Ariyallur or any other Judicial Magistrate Court.

For Petitioner : Mr.Joel Paul Antony
For R1 & R2 : Mr.T.Lenin Kumar

ORDER

This petition is filed seeking transfer of D.V.C.No.33 of 2017 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Trichy, to Additional Mahila Court, Ariyallur or any other Judicial Magistrate Court.



2. Case in brief:-

There was a matrimonial dispute between the petitioner and the first respondent herein, who are the husband and wife. The second respondent is the daughter born to them. Over the matrimonial dispute, the above said DVC has been filed by the first respondent, against the petitioner. It is pending before the Additional Mahila Court, Trichy. The sister of the first respondent by name, Josephine, is an Advocate and also practicing in Trichy Court and without taking proper permission, she was permitted to go through the records, which have been filed in the petition. Moreover, as per Rule 13 of Chapter II of part VI of the Bar Council of India under the Advocates Act, 1961, the sister of the first respondent should not appear before the concerned Court. The above said Josephine, who is the sister of the first respondent is practicing in Lalgudi, appearing for the first respondent is thoroughly misdeed one. The action of the above said advocate was brought to the notice of the Additional Mahila Court, Trichy. But, there was no action. So, in the facts and circumstances of the case, the petitioner will not get any justice, at the hands of the Additional Mahila Court, Trichy. Moreover, based upon the instruction given by the above said Josephine, no Advocate is willing to file vakalat for the petitioner and conduct the matter. Hence, this petition.

3. A counter affidavit has been filed by refusing the allegation that has been made by the petitioner in the petition. Originally, on 15.03.2017, the first respondent filed a petition in D.V.O.P.No.33 of 2017, on the file of the learned Additional Mahila Court (Judicial Magistrate), Trichy, against the petitioner and her in-laws and they filed a quash petition in Crl.OP(MD)No.7738 of 2017 and the same was quashed in respect of the petitioners 2 to 6, by the order, dated 17.10.2019 and a direction was issued by this Court, to complete the proceedings within a period of three months. But, in spite of that, it is not completed.

4. 5 witnesses have been examined on the side of the first respondent. They were also cross-examined by the petitioner. Thereafter, the case was posted for respondent side evidence. At this juncture, this petition came to be filed.

5. The learned counsel for the respondent would submit that only the petitioner took many adjournments for the purpose of filing counter and cross-examining the witnesses. So, the allegation that the proceedings were not completed within the time stipulated by the Court is not correct. The sister of the first respondent is not practicing for the past 15 years. There is no complaint, against her. When the case was posted for the examination of the petitioner's side evidence, this petition came to be filed.

6. Heard both sides.

<https://hcservices.courts.gov.in/hcservices> Some allegation has been levelled by the petitioner



regarding the perusal of documents by the sister of the first respondent and over the non-compliance of the order passed by this Court, in the above said Crl.OP(MD)No.7738 of 2017, a report has been called for from the Additional Mahila Court, Trichy and he sent a reply, dated 13.08.2021, setting out the entire facts and circumstances as well as the stage of the petition. Apart from, narrating the events, which have also stated that the copy of the dismissal order, in Crl.OP(MD)No.4606 of 2020 and Crl.MP(MD)Nos.2615 & 2617 of 2020, dated 15.03.2021 was received only on 12.07.2021 and because of the pandemic situation, it could not be proceeded. It has also stated that none was permitted to peruse the documents, without the permission of the Court.

8. From the report of the Additional Mahila Judge, Trichy, it is seen that only because of filing various petitions before this Court, the proceedings was prolonged and now, it reached completion stage since the petitioner has to let in evidence. Moreover, in a recent judgment of this Court, in batch of cases in **Dr.P.Padmanaban and other Vs Monica and Another 2021 1 MLJ Crl. 311**, a direction has been issued to all the Courts, which are dealing with domestic violence case to complete the process within 3 months. Even though, there was also such a direction in this petition due to the various proceedings, it could not be complied.

9. Whatever it may be, the allegation made by the petitioner for transfer the case was found to be baseless and untenable and during the course of argument, the learned counsel for the respondent has brought to the knowledge of this Court that the petitioner has also filed a Civil Revision Petition seeking quashment of the proceedings, on the ground that only after a lapse of one year from the date of dispute, the case has been registered. So, according to the counsel for the respondent, the contention on the part of the petitioner clearly shows that he does not want the matter to proceed. So, this argument, on the side of the respondent, is also acceptable.

10. In the light of the letter of the concerned Judge, the various events took place through the process. So, I am convinced that the ground that has been raised by the petitioner, in this petition, for transfer, is not maintainable.

11. The additional type set issue is not relevant. The matter is pending for more than 4 years. There was no trouble at the hands of the sister of the respondent. The reason is unfounded.

12. Since, the matter has been pending for more than 4 years, the Trial Court is directed to comply the order passed by this Court in Crl.OP(MD)No.7738 of 2017, dated 17.10.2019, immediately and thereafter, Compliance Report must be submitted to the Registry. Without any reason, adjournment should not be granted.



13. With the above directions, this petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

WEB COPY // True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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 Judicial Magistrate, Additional Mahila Court,
Trichy.

2.The Judicial Magistrate, Additional Mahila Court,
Ariyalur.

Copy to :

The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

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MGJ(28.09.2021) 4P 4C