



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.305 of 2021

and

C.M.P. (MD) No.6419 of 2021

B.Suganya

... Petitioner/Respondent

Vs.

M.Magesh

... 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 in FCOP No.209 of 2020 on the file of the Family Court, Thanjavur, Thanjavur District and to transfer the same to the file of the Subordinate Court, Pudukkottai, Pudukkottai District.

For Petitioner : Mr.NA.Palaniyandi

For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case in FCOP No.394 of 2020 on the file of the Family Court, Thanjavur, Thanjavur District and transfer the same to the file of the Subordinate Court, Pudukkottai, Pudukkottai District.

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 04.09.2019 at P.T.S. Marriage Hall, Thanjavur, as per the Hindu Rites and Customs. The learned counsel for the petitioner would further submit that at the time of marriage, the parents of the petitioner have given gold jewels and house hold articles to the petitioner as sreedhana. Four months after the marriage the respondent and his family members started harassing and teasing the petitioner's physical appearance and also stated that the petitioner is not suitable for the respondent. Further the respondent also started harassing the



petitioner demanding more dowry. Since the petitioner's father was unable to satisfy the demand of the respondent, the petitioner was driven out of the matrimonial home. Due to the same the father of the petitioner was worried and heart broken and he died of worry on 23.02.2021. The petitioner and her widowed mother were pleading the respondent and his family members to take her back to the matrimonial home. In the meantime the respondent had filed a petition for divorce in FCOP No209 of 2020 on the file of the file of the Family Court, Thanjavur Further the respondent being an influential person had sent some word through his friends and henchmen that the petitioner should agree for mutual divorce and the henchmen of the respondent have also threatened her that she will be harmed if she contests the divorce petition filed by the respondent. The petitioner is not under the mercy of her widowed mother living in Pudukottai. She has to travel from Pudukottai to Tanjore alone which is 70kms. She also apprehends that she will be physically harassed at Tanjore.

3.The learned counsel for the petitioner would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration of 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, she seeks for transfer.

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

5.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.***

6.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, FCOP No.209 of 2020 is withdrawn from the file of the Family Court, Thanjavur, Thanjavur District, and transferred to the file of Subordinate Court, Pudukkottai, Pudukkottai District, for disposal as per law. The Family Court, Thanjavur, is directed to transmit the papers to the file of the Subordinate Court, Pudukkottai, forthwith. The Subordinate Judge, Pudukkottai, is directed to dispose of the same on merits and in accordance with law as expeditiously as possible.



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

Sd/-

Assistant Registrar (CS-II)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rm

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,
Thanjavur,
Thanjavur District.

2.The Subordinate Court,
Pudukkottai,
Pudukkottai District.

+1 CC to M/s.NA.PALANIYANDI, Advocate (SR-28368[F] dated 07/09/2021)

Tr.C.M.P. (MD) No.305 of 2021
06.09.2021

RK (24.09.2021) 3P 4C