



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.326 of 2021

and

C.M.P. (MD) No.6872 of 2021

WEB COPY

M.Mithra

... Petitioner/Respondent

Vs.

S.Santhosh

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to pass an order directing the Prl. Judge(Family Court) Coimbatore to withdraw the HMOP No.1035 of 2021 from the file of the Principal Judge, Family Court, Coimbatore and to transfer the same to the file of the Family Court, Madurai.

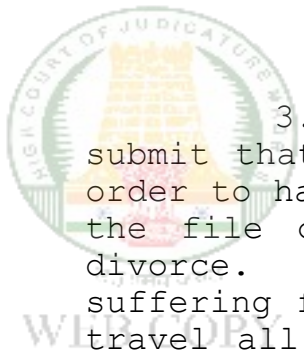
For Petitioner : Mr.T.K.Gopalan

For Respondent : Mr.K.Myilvaganan

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in HMOP No.1035 of 2021 from the file of the Principal Judge, Family Court, Coimbatore and transfer the same to the file of the Family Court, Madurai.

2.The learned counsel for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 15.03.2021 at Raj Mahal, K.K.Nagar, Madurai, as per the Hindu Rites and Customs. After the marriage, the petitioner and the respondent were living in the marital home at Singanallur, Coimbatore. The attitude of the respondent has changed after some time and he had demanded additional dowry and when the petitioner was unable to pay the additional dowry as claimed by the respondent, the petitioner was driven out of the matrimonial home and the petitioner is presently residing with her parents at Madurai. The respondent is working as Manager at Azzuri Bay Italian Restaurant at Chennai. The respondent has also developed intimacy with one Sofia @ Sumathi and he has expressed his opinion that he is not interested to live with the petitioner.



3.The learned counsel for the petitioner would further submit that the respondent is now employed at Chennai and only in order to harass the petitioner, he has filed HMOP No.1035 of 2021 on the file of the Principal Family Court, Coimbatore, seeking for divorce. The petitioner's father is aged about 62 years and suffering from aged ailments. The petitioner finds it difficult to travel all the way from Madurai to Coimbatore to attend the Court hearings and the petitioner has nobody to accompany her. The respondent is now employed at Chennai and he also has to travel all the way from Chennai to Coimbatore and that it will not be difficult for him to travel from Chennai to Madurai. He would further submit that admittedly the respondent in his counter-affidavit has stated that the health condition of the petitioner is not good and she is having breathing problem.

4.The learned counsel for the petitioner 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, had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

5.The learned counsel for the respondent would submit that due to the matrimonial dispute, the petitioner has given a false complaint against the respondent before the All Women Police Station, Tallakulam, Madurai and Anticipatory Bail Petition is also pending.

6.Heard the learned counsel on either side and perused the material available on records.

7.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.***

8.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel on either side, HMOP No.1035 of 2021 is withdrawn from the file of Principal Family Court, Coimbatore, and transferred to the file of Family Court, Madurai, for disposal as per law. The Principal Family Court, Coimbatore, is directed to transmit the papers to the file of the Family Court, Madurai, forthwith. The Family Court, Madurai, is directed to dispose of the same on merits and in accordance with law as expeditiously as possible.



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

Sd/-

Assistant Registrar (CS I)

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 Principal Judge
Family Court,
Coimbatore.

2. The Judge,
Family Court,
Madurai.

Tr.C.M.P. (MD) No.326 of 2021
05.10.2021

MGJ(20.10.2021) 3P 3C