



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.343 of 2021

and

C.M.P. (MD) No.6973 of 2021

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Vijayalakshmi

... Petitioner/Respondent

Vs.

Rajkumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw the H.M.O.P. No.109 of 2020 on the file of the Subordinate Court, Srivilliputhur and transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.S.Pooranachandran

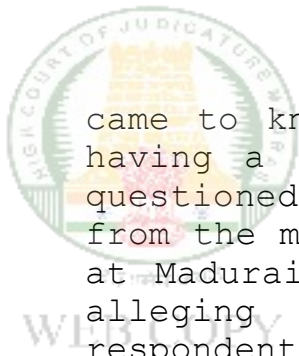
For Respondent : No appearance

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in H.M.O.P.No.109 of 2020 from the file of the Subordinate Court, Srivilliputhur 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 23.11.2017 as per the Hindu rites and customs at JSA Mahal, Rajapalayam. At the time of marriage, petitioner's parents had given 40 sovereigns of jewels to the petitioner and 5 sovereigns of gold jewel to the respondent, 1 kg of silver articles and household articles worth about more than Rs.3 lakhs as sridhana property. After marriage, the petitioner started the matrimonial life with respondent at his house at Rajapalayam. The respondent was working as a Interior Designer at Chennai. From the inception of marriage, the respondent avoided consummation stating that he wanted to postpone pregnancy. After few days of marriage the attitude of the respondent changed and he and his family members harassed the petitioner and demanded additional dowry.

3.During the month of February 2018, the petitioner went along with respondent to Chennai. At the time, the petitioner



came to know that the respondent prior to the marriage, had been having a live in relationship with one Nandhini. When this was questioned by the petitioner, the petitioner was forcibly sent out from the matrimonial home. While, she was staying with her parents at Madurai, the petitioner received a legal notice on 10.07.2020 alleging false allegations against her. In the mean while, the respondent though presently working at Chennai, has filed a divorce petition in H.M.O.P.No.109 of 2020, on the file of Subordinate Court, Srivilliputhur. The petitioner is dependent on her parents for her livelihood and hence, it is very difficult for her to travel to Srivilliputhur, for each and every hearing. Since, the respondent did not maintain the petitioner, the petitioner has filed M.C.No.85 of 2021, on the file of the Family Court, Madurai, seeking for maintenance and the same is also pending.

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.Heard the learned counsel for the petitioner. Despite service of notice and name being printed in the cause list, there is no representation on behalf of the respondent, either in person or through counsel.

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, H.M.O.P.No.109 of 2020 is withdrawn from the file of Subordinate Court, Srivilliputhur and transferred to the file of Family Court, Madurai, for disposal as per law. The Subordinate Court, Srivilliputhur, is directed to transmit the papers to the file of the Family Court, Madurai, forthwith. The Family Court, Madurai, is directed to club the case in H.M.O.P.No.109 of 2020 along with M.C.No.85 of 2021 together and dispose of 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 petitions are closed.

Sd/-

Assistant Registrar (AD-I)

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// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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,
Srivilliputhur.

2. The Judge
Family Court,
Madurai.

Tr.C.M.P. (MD) No.343 of 2021
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RK/JGB (01/11/2021) 3P 3C