



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2021

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGOVAN**

Crl.O.P.(MD)No.22792 of 2018 and
Crl.M.P(MD) Nos.10751 & 10752 of 2018

R.Gopalakrishnan

... Petitioner/Respondent

Vs.

1.Sutharshana
2.Minor Thanvi

... Respondents/Petitioners

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to withdraw the case in M.C.No.5 of 2016, on the file of the learned District Munsif-cum-Judicial Magistrate, Aundipatti and transfer the same to any other Magistrate Court situated at Madurai.

For Petitioner

: Mr.S.Kanagarajan

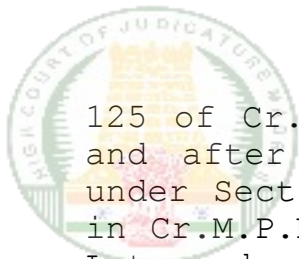
ORDER

This petition is filed to transfer the case in M.C.No.5 of 2016, on the file of the learned District Munsif-cum-Judicial Magistrate, Andipatti to some other Court.

2.Though served, there is no appearance on behalf of the respondent. It is a case of matrimonial dispute. The case in M.C.No.5 of 2016 has been filed by the first respondent on behalf of the minor second respondent before the trial Court seeking maintenance. Since the case is of the year 2016, a report was called for from the concerned Court.

3.The learned counsel for the petitioner would submit that the first respondent is working as staff in the office of the Superintendent of Police based at Madurai and because of the influence made by the first respondent, he seeks transfer of the above case. In the petition, it is stated that H.M.O.P.No.182 of 2017 and H.M.O.P.No.19 of 2016 are pending before the Sub Court, Theni. The ground that has been raised at the time of hearing has not been made as a ground in this petition.

4. The report from the concerned Judicial Magistrate shows that the petition filed by the first respondent herein under Section



125 of Cr.P.C was taken on file on 06.04.2016 in M.C.No.5 of 2016 and after several adjournments, the petitioner filed a petition under Section 311 of Cr.P.C, to examine Revenue Divisional Officer, in Cr.M.P.No.2355 of 2018 and the same was dismissed on 28.08.2018. Later, he filed a petition under Section 91 Cr.P.C to call for documents from Municipality and the same was dismissed on 17.12.2018. At this juncture, this Criminal Original Petition seeking transfer of M.C.No.5 of 2016 came to be filed on 20.12.2018. Due to pendency of this petition, the case has been repeatedly adjourned. Subsequently, due to Covid-19 lock down, the case has been adjourned on various dates. Thereafter, the case is adjourned to 05.08.2021 for further cross examination of PW 1.

5.It is seen from the report submitted by the learned Judicial Magistrate, Andipatti that the simple case of Maintenance is kept pending for more than five years. The ground made by the petitioner in this petition and during his arguments are not convincing.

6.In view of the above this Criminal Original Petition is liable to be dismissed and accordingly, it is dismissed. However, considering the facts and circumstances of the case, there shall be a direction to the petitioner to co-operate with the enquiry and the learned Magistrate is directed to dispose of the case in M.C.No.5 of 2016 within a period of three months from the date of receipt of a copy of this order on merits and in accordance with law. On any ground the matter should not be adjourned further unnecessarily by the trial Court. After disposal of the same, compliance report must be submitted to the Registry of this Court. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

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 District Munsif-cum-Judicial Magistrate, Andipatti

WEB COPY

Copy to

1.The Registrar Judicial,
O/o The Registrar Judicial,
Madurai Bench of Madras High Court, Madurai.

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

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RK (03.08.2021) 3P 4C