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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.Nos.8182 and 8184 of 2022
and Crl.M.P.Nos.4760 and 4767 of 2022

1.P.Avudayappan
2.A.Palanivel Nelliappan
3.P.Uma
4.Meera Santhanakrishnan

... Petitioners in Crl.OP.8182/2022

P.Avudayappan

... Petitioner in Crl.OP.8184/2022

Vs.

N.Anuvarshini

... Respondent in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure, to issue necessary directions to withdraw and transfer the case in D.V.O.P.No.8 of 2017 and M.C.No.14 of 2017 on the file of the District Munsif Cum Judicial Magistrate Court, Neyveli to any other Magistrate Court in Madurai District or in Dindugal District.

For Petitioners	:	Mr.S.Vijayakumar
For Respondent	:	Dr.R.Sampathkumar for Mr.M.E.Syed Ansari

ORDER

This Criminal Original Petition has been filed under Section 407 of the Code of Criminal Procedure, to issue necessary directions to withdraw and transfer the case in D.V.O.P.No.8 of 2017 and M.C.No.14 of 2017 on the file of the District Munsif Cum Judicial Magistrate Court, Neyveli to any other Magistrate Court in Madurai District or in Dindugal District.

2.These petitions are originally filed to transfer the Maintenance case pending in M.C.No.14 of 2017 and another application in D.V.O.P.No.8 of 2017 on the file of the District Munsif Court cum Judicial Magistrate Court, Neyveli Cuddalore District for transfer.



3.It is the grievance of the petitioner that he has already filed other petition in H.M.O.P.No.531 of 2022 pending on the file of Family Court, Madurai for nullity of marriage. It is the further contention of the petitioner that the respondent has already filed two other petitions in H.M.O.P.No.44 of 2018 and H.M.O.P.No.35 of 2018 one for restitution of conjugal rights and another for divorce on the file of the Sub Court, Panruti, Cuddalore District and H.M.O.P.No.35 of 2018 was withdrawn by him.

4.The main grievance of the petitioners is that since the petitioners are residing in Madurai, they are facing difficulty in appearing before the Sub-Court, Panruti, Cuddalore District, therefore, they seek transfer of the above petitions to Madurai District.

5.The said contentions are opposed by Dr.R.Sampathkumar, the learned counsel appearing for the respondent. It is the contention of the learned counsel for the respondent that only at the direction of this Court, H.M.O.P.No.43 of 2017 was transferred to Panruti, now the same has been withdrawn cleverly and other O.P. has been filed by the petitioners seeking transfer. However, the learned counsel submitted that if all the proceedings are tried in one place, there is no objection for the respondent to transfer all the cases to one particular district.

6.Learned counsel for the petitioner also has no objection for the same. He further contended that the residence of the petitioners / husband is far away from the Court, therefore, all these proceedings to be transferred to Madurai.

7.The Hon'ble Apex Court has rightly held in 2008 (9) SCC 353 (Arti Rani @ Pinki Devi and another V. Dharmendra Kumar Gupta) and AIR 2002 SC 396 (Sumita Singh V. Kumar Sanjay and another) that the convenience of the women is paramount while transferring any matrimonial dispute.

8.In such view of the matter, this Court is of the view that transfer of the cases to Madurai cannot be ordered. However, considering the fact that the petitioners are residing in Madurai and the respondent is residing in Chennai, this Court is of the opinion that all the matters shall be tried in one particular place. Therefore, all the cases are transferred to Villupuram for the convenience of both the parties.

9.Accordingly, M.C.No.14 of 2017 pending on the file of the District Munsif Cum Judicial Magistrate Court, Neyveli, Cuddalore District and D.V.O.P.No.8 of 2017 pending on the same Court viz. District Munsif Cum Judicial Magistrate Court, Neyveli, Cuddalore District are ordered to be transferred to the file of the Judicial Magistrate No.1,



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Villupuram. Similarly, H.M.O.P.No.44 of 2018 pending on the file of Sub Court, Panruti, Cuddalore District and H.M.O.P.No.531 of 2022 on the file of Family Court, Madurai are ordered to be transferred to the Principal Sub Court, Villupuram.

10. The order of the transfer of H.M.O.Ps. though beyond the jurisdiction of this Court while exercising power u/s.482 of Cr.P.C, considering the submissions made by both sides, such order of transfer of H.M.O.P. is passed by invoking power under Article 227 of Constitution of India.

11. Accordingly, the District Munsif Court Cum Judicial Magistrate Court, Neyveli, Cuddalore District is hereby directed to transfer all the records pertaining to M.C.No.14 of 2017 and D.V.C.No.8 of 2017 to the file of Judicial Magistrate No.1, Villupuram. The Sub Court, Panruti, Cuddalore District and Family Court, Madurai are directed to transfer H.M.O.P.No.44 of 2018 and H.M.O.P.No.531 of 2022 respectively forthwith without any further delay to the file of the learned Principal Sub-Court, Villupuram.

12. Learned Judicial Magistrate No.1, Villupuram and the learned Principal Sub-Court Judge, Villupuram are directed to dispose of the matters within a period of four (4) months from the date of receipt of a copy of this order.

13. With the above direction, these Criminal Original Petitions are disposed of. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif Cum Judicial Magistrate,
Neyveli,
Cuddalore District.

2. The Judicial Magistrate No.1,
Villupuram.

3. The Subordinate Judge,
Panruti, Cuddalore District.

4. The Principal Subordinate Judge,
Villupuram.



5.The Judge,
Family Court, Madurai.

6.The Judge,
Magistrate Court,
Madurai.

7.The Judge,
Magistrate Court,
Dindugal.

+2ccs to Mr.S.Vijayakumar, Advocate SR. No. 38401 (29/06/2022)

Crl.O.P.No.8182& 8184 of 2022

Crl.M.P.No.4760 &4767 of 2022

KK (CO)
PR (28/06/2022)