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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

TR.CMP. No.1042 of 2022

and

CMP.No.17954 of 2022

Dr.G.Anand Sekar

...Petitioner

versus

Dr.T.Hemalatha

...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the O.P. No.1291 of 2020 pending on the file of the VI Additional Family Court, Chennai and transfer the same to the file of the Family Court, Puducherry.

For Petitioner : Mr.T.Gowthaman

For Respondent : M/s.N.Kavitha Rameshwar

ORDER

The Petitioner/husband filed this transfer petition seeking transfer of petition for divorce filed by the respondent/wife in HMOP.No.1291 of 2020 from the file of the VI Additional Family Court, Chennai to the Family Court, Puducherry.



2. According to the petitioner, he is a cardiologist working in a private Medical College, Puducherry and in view of his pre-occupation in connection with the professional activity, he finds it very difficult to undertake travel to Chennai to attend the family court hearings at Chennai.

3. The petitioner/husband has further stated that he has been continuously abused and harassed by the respondent and her assisting Junior Advocate. It was specifically averred by the petitioner in the affidavit in support of the transfer petition that on 28.12.2021, the respondent, her mother and her counsel picked up a fight with him in the court campus itself and abused him with unparliamentary words. It was also stated that he had given a police complaint before the High Court police station which issued CSR receipt. It was further averred in his affidavit that on 20.09.2022 when the petitioner was submitting a copy application before the Family Court, the respondent shouted at him by using unnecessary unfortunate words.

4. The learned counsel for the petitioner has drawn the attention of this court to the memo filed by the petitioner dated 27.09.2022, wherein, he narrated the undesirable happening that had taken place on 20.09.2022. On these allegations, the petitioner/husband sought for transfer of divorce petition



from Chennai to Puducherry.

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5. The respondent/wife has filed a detailed counter and denied the averments found in the affidavit of the husband. The respondent in her counter, averred that she is entitled to file a petition before the court within whose jurisdiction she resides as per Section 19 of Hindu Marriage Act. It was specifically averred by the respondent in her affidavit that both the petitioner and the respondent last resided together at Mylapore within the territorial jurisdiction of the Family Court, Chennai. It was also stated that the respondent is presently residing at Thiruvalluvar Nagar, Thiruvannamiyur, Chennai, within the territorial jurisdiction of Family Court, Chennai and hence the court at Chennai has got jurisdiction to try the divorce petition filed by her. It was further stated that the complaint given by the petitioner as against junior counsel of the respondent was a false and frivolous one and the same was only a counter blast complaint for the complaint preferred by her advocate. It was stated that the petitioner abused her assisting counsel in the presence of staff of the Family Court. The respondent further stated that the petitioner has been always in the habit of provoking the respondent and when she was forced to react, the petitioner would portray the behaviour of the respondent by blowing out of proportion.



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6. Heard the arguments of the learned counsel for the petitioner and the learned counsel for the respondent and perused the typed set of papers.

7. The learned counsel for the petitioner by referring to the averments found in the affidavit filed by the petitioner in support of his transfer application and also the documents filed in the typed set of papers submitted that there is no physical safety for the petitioner at Chennai and consequently, transfer application has to be ordered. The learned counsel further submitted that the petitioner is a cardiologist and his presence is very much required in the hospital at Puducherry to attend heart related emergencies. Therefore, by taking into consideration the difficulty faced by the husband as a cardiologist, the petition filed by the respondent/wife shall be transferred to the Family Court, Puducherry.

8. Countering the argument of the learned counsel for the petitioner, the learned counsel for the respondent submitted that the respondent is also a doctor and she is working as a resident surgeon at Chennai. Therefore, merely because the petitioner is a cardiologist working at Puducherry, he cannot seek transfer of the case to Puducherry just to suit his convenience. Learned



counsel has further submitted that the allegations made against the assisting junior counsel and the allegations made against the respondent herself are false allegations, invented for the purpose of this case. The learned counsel by drawing the attention of this court to the order passed by this court in CRP.No.332 of 2022 wherein this court directed the court below to dispose of the petition for divorce in HMOP.1291 of 2020 within four months from the date of failure of mediation process, pointed out that the petitioner filed a series of vexatious petition before the court below to drag on the proceedings with scant respect for the orders passed by this court.

9. In nut shell, it is the submission of the learned counsel for the respondent that the present transfer petition and also the other petitions filed by the petitioner/husband are only an attempt to protract the proceedings. The perusal of the affidavit filed by the petitioner and the counter affidavit filed by the respondent would suggest that both the parties are doctors. The petitioner is a cardiologist working at Puducherry and the respondent is a resident surgeon working at Chennai. Therefore, by pointing his professional responsibility, it is not open to the petitioner to seek transfer of the matrimonial case from the Family Court, Chennai to Puducherry. It is settled law that in the matters involving matrimonial disputes, the convenience of the



wife shall be given preference. In the case on hand, respondent/wife is residing at Thiruvannmiyur, within the territorial limits of the Family Court, Chennai and she is also working as resident surgeon at Chennai.

10. Under such circumstances, first ground urged by the learned counsel for the petitioner based on the professional responsibility of the petitioner cannot be countenanced.

11. As far as the second contention of the learned counsel for the petitioner that there is no safety for the petitioner at Chennai, in the light of the undesirable behaviour by the respondent and her assisting junior counsel, is concerned, the said allegations were denied by the respondent in her affidavit. The petitioner has not produced any material to substantiate those allegations except the CSR receipt issued by the police and the memo filed by him before the Family Court dated 27.09.2022. It appears that based on the complaint preferred by the petitioner, no further action was taken by the police. It was stated by the petitioner that in view of the influence enjoyed by the counsel, no action was taken against him by the police by registering FIR. The said averment of the petitioner cannot be accepted in the absence of any further action on the part of the petitioner to pursue his complaint given



to the police. Therefore, based on the unsubstantiated allegations made by the petitioner regarding his physical safety, this court is not inclined to consider his request for transfer.

12. In view of the discussions made above, this transfer petition filed by the petitioner / husband is dismissed as devoid of merit. Consequently, connected miscellaneous petition is closed.

07.11.2022
(1/2)

Index : Yes/No

Internet : Yes/No

gv

To

1. The VI Additional Family Court, Chennai.



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S.SOUNTHAR.,J.

Gv

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