



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

CRL.O.P.No.24690 of 2019
and Crl.M.P.No.13139 of 2019

H.Bhagyalakshmi

... Petitioner

-vs-

1.Rojaramani
2.B.Saraswathi
3.R.Boopathy
4.The State: Inspector of Police,
All Women Police Station,
Sankagiri, Salem District.

... Respondents

Prayer: Criminal Original petition filed under Section 407 of Criminal Procedure Code, to transfer the case in C.C.No.285 of 2018 on the file of the learned Judicial Magistrate Court-II, Sankagiri, Salem District to learned Metropolitan Magistrate Court-XVII, Saidapet, Chennai or any other competent Magistrate Courts in Chennai.

For Petitioner : Mr.T.K.S.Gandhi

For R1- to R-3 : M/s.T.S.Sivamani

For R-4 : Mr.S.Santhosh
Government Advocate (Crl. Side)

O R D E R

This petition has been filed by the petitioner seeking to transfer the case in C.C.No.285 of 2018 on the file of the learned Judicial Magistrate Court-II, Sankari, Salem District to learned Metropolitan Magistrate Court-XVII, Saidapet, Chennai or any other competent Magistrate Courts in Chennai.

2. Heard both sides and perused the materials available on records.

3. The gist of the complaint in C.C.No.285 of 2018 is that, the petitioner is the wife of the first respondent, and there was matrimonial dispute between them, and hence she has given a complaint before the All Women Police Station at



Vadapalani, dated on 20.05.2014 and after investigation, the matter was transferred to Salem which has territorial jurisdiction over the matter and the All Women Police Station Sankagiri, Salem, registered it in Crime No.07 of 2014, investigated and filed a final report, based on which summons were issued and the case was taken on the file of Magistrate II, Sankagiri in C.C.No.285 of 2018.

4. The contention of the petitioner to transfer the case from Sankagiri to Chennai on the ground part cause of action. The complaint was initially given at Chennai, but on the face of the complaint itself, this Court finds that the marriage took place at Sankagiri and the matrimonial home was set up at Chennai, but even before the "Shanthi Muhurtham" conducted, which was fixed on 13.06.2013, there was some misunderstanding between the family members regarding the physical infirmity of the petitioner herein, except the reception conducted at Valasaravakkam, no cause of action was arose in Chennai and thereafter All Women Police Station, Chennai had rightly transferred the investigation to All Women Police Station, Sankagiri and they have conducted the investigation and filed a final report. Even, according to the petitioner/wife, the respondents 1 to 3 are residents of Sankagiri, Salem and therefore reason for seeking transfer on the ground of cause of action arose in Chennai, is un-sustainable.

5. The next point raised by the petitioner is that, when the petitioner went to Sankagiri to attend the case, she was threatened by her husband and mother in-law and hence, she immediately gave a complaint to the Magistrate concerned in Sankagiri on 17.06.2019 and filed a petition for transfer the case. This Court finds no acknowledgement of the complaint and from the conduct of the petitioner in filing the transfer petition also, does not inspires confidence or truthfulness of the case of the petitioner/wife.

6. The learned Government Advocate (Crl. Side) appearing for the fourth respondent also submits that there was no threat to the petitioner herein in Sankagiri when she attended the Court proceedings.

7. The learned counsel for the petitioner submitted that for restitution of the conjugal rights, the petitioner has filed HMOP.No.4147 of 2014 before the V Additional Family Court at Chennai and since the petitioner is attending family Court at Chennai, there is no difficulty for her to attend the criminal case also, if it is transferred to any one of the Metropolitan Magistrate Court at Chennai.

8. The learned counsel for the petitioner also relied upon



the judgement of Supreme Court in Ruhi Vs. Anees Ahmad, dated 06.01.2020 in Criminal Appeal No.7 of 2020 (@ SLP (Criminal) No. 106 of 2017) wherein the Supreme Court has observed that:

"16. We, therefore, hold that the courts at the place where wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498-A of the Penal Code."

9. The above observations of the Supreme Court is exception to the general rule and that the exception will depend upon factual situation. In this particular case, the marriage took place on 12.06.2013 at Ilampillai, Salem District. The petitioner herself has given complaint to the Chief Minister's cell (CM cell), stating that, ever since the marriage, she is not living with her husband and therefore, she sought interference of the CM cell and thereafter, a complaint dated 20.05.2014 was given by the petitioner before All Women Police Station, Vadapalani. Thus the complaint is transferred to All Women Police Station, Sankagiri alleging to file a final report in C.C. No.285 of 2018 and in the meanwhile, the petitioner/wife has also approached Family Court for restitution of conjugal rights and the same is pending. For transfer of criminal case to the Court which has jurisdiction, there must be a strong reason for the other Court to disturb and settle jurisdiction. In this case, there is no such reason for the petitioner herein having filed a criminal complaint alleging certain offences under I.P.C., which took place within the jurisdiction of Sankagiri Magistrate Court and not only for the convenience of the petitioner, but also witnesses has to depose in support of the petitioner. The trial has to be conducted only at Sankagiri and not at Chennai and therefore the transfer petition has to be dismissed. Accordingly, this Criminal Original Petition is dismissed. Connected miscellaneous petitions are closed.

The learned Judicial Magistrate II, Sankagiri, Salem District is directed to proceed with the trial in C.C.No.285 of 2018 and complete the same expeditiously.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

sma/dsn



To

1. The Inspector of Police,
All Women Police Station,
Sankagiri, Salem District.
2. The Judicial Magistrate II,
Sankagiri, Salem District.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.24690 of 2019
and Crl.M.P.No.13139 of 2019

VG-II(CO)
SB(07/04/2022)