



Crl.O.P No.28408 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.11.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.28408 of 2022
and Crl.M.P. Nos.17451 & 17453 of 2022

Showkath Ali

... Petitioner

Vs.

Riswana

... Respondent

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to withdraw the D.V.C. No.2 /2021 pending before the District Munsif cum Judicial Magistrate, Uthukottai and transfer the same to Judicial Magistrate No.1, Chengalpattu.

For Petitioner : Mr.K.Sathish Kumar

For Respondent : Mr.S.Santhosh
Government Advocate (Crl.Side)



ORDER

WEB COPY This petition has been filed to withdraw the proceedings in D.V.C.

No.2 /2021 pending before the District Munsif cum Judicial Magistrate, Uthukottai and transfer the same to Judicial Magistrate No.1, Chengalpattu.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 25.02.2021 as per Islamic Rites and Customs and they started to live together as joint family at petitioner's house; later there was a misunderstanding between the couples and due to which the respondent had given a complaint against the petitioner and his family members by alleging that they have demanded dowry and ill-treated her; the respondent had filed a domestic violence case in D.V.C.No.2 of 2021 before the District Munsif cum Judicial Magistrate, Uthukottai just with an intention to harass the petitioner and his family members; the respondent is a practising advocate at Uthukottai and in view of that the petitioner is facing threat; even the local advocates have refused to appear on behalf of the petitioner and the learned Magistrate has adjourned the case on short intervals and insisted the appearance of the respondent for each and every hearing; in view of the same, the petitioner



had engaged an advocate at Ramanathapuram and it is very difficult for the petitioner and his counsel to travel from Ramanathapuram to Uthokottai for every hearing; hence, domestic violence petition filed by the respondent should be withdrawn from the file of District Munsif cum Judicial Magistrate, Uthukottai and transfer the same to the Judicial Magistrate No.I, Chengalpattu or any other Court.

3. The Protection of Women from Domestic Violence Act, 2005 has been enacted with an object of protecting women from any kind of domestic violence or ill-treatment from their own family members with whom she is in relationship. According to Section 27 of the Protection of Women from Domestic Violence Act, 2005, the right is given to the women to file petitions within the jurisdiction where she permanently or temporarily resides or carries on business or employment or the cause of action has arisen. However, priority is given to the place where the women permanently or temporarily resides or carries on her business or employment.



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4. For better understanding, Section 27 of the Protection of Women from Domestic Violence Act, 2005 is extracted hereunder:

“27. Jurisdiction:

(1) The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which –

a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

b) the respondent resides or carries on business or is employed; or

c) the cause of action has arisen, shall be competent Court to grant a protection order and other orders under this Act and to try offences under this Act.

2) Any order made under this Act shall be enforceable throughout India.”

5. The allegations made by the petitioner is without any basis. Just because the respondent happens to be an advocate practising at Uthukottai, the petitioner cannot be deprived of her right to maintain a domestic violence case within the jurisdiction of Uthukottai. The petitioner has stated that he has engaged an advocate at Ramanathapuram and it is not possible for his counsel also to travel from Ramanathapuram to Uthukottai and make his appearance there. It is unreasonable and impracticable for the petitioner



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to engage an advocate at Ramanathapuram for a case which is being conducted at Uthukottai. If the petitioner feels that he has some problem with the local advocates, he could avail the services of advocates who are residing nearby Uthukottai. Further in family matters especially in Domestic Violence cases, it is not necessary that the party should be represented through a Counsel. It is sufficient if the petitioner makes his appearance and make his submissions. Since domestic violence cases arise primarily due to misunderstanding between the couples, the Judicial Magistrate, expects the presence of both parties at the time of hearing. However, it shall not be appreciated if the parties are made to appear before the Court for numerous hearings and that would cause inconvenience to both of them.

6. Though I do not find any reasons for withdrawing the case from the file of District Munsif cum Judicial Magistrate, Uthukottai and transfer the same to the file of Judicial Magistrate No.I, Chengalpattu or to some other Court, I feel it is appropriate to direct the District Munsif cum Judicial Magistrate, Uthukottai to dispose the case within a specified time.



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7. Accordingly, the learned District Munsif cum Judicial Magistrate, Uthukottai shall dispose of the case in D.V.C. No.2 of 2021 pending on its file, within a period of two months from the date of receipt of a copy of this order.

8. With the above direction, this Criminal Original Petition is disposed. Consequently, connected miscellaneous petitions are closed.

21.11.2022

Index : Yes/No
Speaking Order : Yes / No
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To:

WEB COPY

1.The District Munsif cum Judicial Magistrate, Uthukottai.

2.The Judicial Magistrate No.1, Chengalpattu.



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R.N.MANJULA, J.,

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