



TR.C.M.P(MD).No.91 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

TR.C.M.P(MD).No.91 of 2022

Selvaraj

... Petitioner

v.

Arunachalam

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the case in G.W.O.P.No.287 of 2021 on the file of the Additional District and Sessions Court, Tenkasi and transfer the same to the Principal District and Sessions Court, Virudhunagar.

For Petitioner : Mr.S.Muniyandi

For Respondent : Mr.K.Prabhu



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ORDER

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This Transfer Civil Miscellaneous Petition has been filed seeking transfer of the case in G.W.O.P.No.287 of 2021 from the file of the Additional District and Sessions Court, Tenkasi to the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur.

2. The petitioner's daughter and the respondent got married on 14.11.2013 and out of the wedlock, they were blessed with two children. According to the petitioner, his daughter committed suicide in the parental home, due to dowry harassment at the hands of the respondent and family. Therefore, he has lodged a complaint before the Rajapalayam North Police Station in Cr.No.686 of 2019. The respondent, after the demise of the petitioner's daughter, got remarried with another woman, Bhavani. Apprehending that the respondent and his second wife would not take good care of his grandchildren, the petitioner has filed G.W.O.P.No.287 of 2021 before the Additional



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District and Sessions Court, Tenkasi. The petitioner is senior citizen, living at Rajapalayam and therefore, he has filed this petition to transfer the case in G.W.O.P.No.287 of 2021 from the file of the Additional District and Sessions Court, Tenkasi, to the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputhur.

3. The learned counsel appearing for the petitioner submits that the respondent is having muscle and money power. The petitioner is having life threat at the hands of the respondent, for having lodged the complaint in Cr.No.686 of 2019. Therefore, he prays for transferring the case.

4. The learned counsel appearing for the respondent submits that the case in G.W.O.P.No.287 of 2021 was filed by the petitioner before the Court at Tenkasi. Now the very same petitioner seeks for transferring the case before the Court at Srivilliputhur. Though the petitioner claims that he is having life threat, no complaints were



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lodged by him in this regard. In fact, the petitioner is a retired Court staff and he has already served at the Court at Srivilliputhur and that is the reason why, he has filed this application for transferring the case to the Court at Srivilliputhur. He further submits that the respondent is taking care of the children and the children are in his custody. Therefore, he prays for dismissal.

5. The Hon'ble Apex Court in the case of *Amitha Shah vs- Virendar Lal Shah*, reported in *(2003)10 SCC 609* has held that the convenience of the wife and more so of the child must be taken into account while deciding the petition for transfer.

6. In the case on hand, the wife is no more and the children are with the respondent / husband. Though the petitioner claims that he is having life threat, no complaint was lodged in this regard. Considering the facts and circumstances of the case and also taking into account that the convenience of children is to be taken into consideration at the time



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of considering transfer petitions as held by the Hon'ble Apex Court in the judgments cited supra, this Court is not inclined to allow the present petition.

7. Accordingly, this transfer civil miscellaneous petition stands dismissed. No costs.

10.08.2022

Index : Yes / No
Internet: Yes / No
gk

To

1. The Additional District and Sessions Court,
Tenkasi.
2. The Principal District and Sessions Court,
Virudhunagar at Srivilliputhur.



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B.PUGALENDHI, J.

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