



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2022

WEB COPY

CORAM:

THE HONOURABLE MRS. JUSTICE S.ANANTHI

Tr.C.M.P. (MD) No.79 of 2022

and

C.M.P (MD)No.1746 of 2022

V.Vidya

... Petitioner

-Vs-

D.Prakash

... Respondent

**PRAYER:** Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.1 of 2022 pending before the Sub Court, Kulithali and transfer the same to Sub Court, Kulaithali and transfer the same to Sub Court, Lalkudi.

For Petitioner : Ms.K.Vidya

For Respondent : (\*)**Mr.B.Prahalad Ravi**

### **O R D E R**

The present Transfer Civil Miscellaneous Petition is filed seeking transfer of H.M.O.P.No.1 of 2022 from file of the learned Sub Court, Kulithali to the file of the learned Sub Court, Lalkudi.

2.The learned counsel for the petitioner submits that the marriage between the petitioner and the respondent was solemnized on 02.07.2018 at Shanmuga Mahal, Periyapalam, Kulithali, Karur District in the presence of the family members, friends and relatives according to Hindu Rites and Customs. At the time of marriage, the petitioner's father gave dowry and household articles to the respondent. After the marriage, the petitioner and the respondent were living at the matrimonial home at Melathanneerpalli, Kulithalai Taluk. Thereafter, the petitioner and the respondent went to Thiruvananthapuram District, Kerala State for their livelihood and the respondent was doing contract work. In the meanwhile, the respondent's family members demanded dowry and the respondent also tortured the petitioner physically and mentally at the instance of his family members. Since we have no children, we went to hospital and it was stated that the respondent was having some health issue and he underwent to operation. Therefore, we shifted our residence

Thereafter also the respondent was not able to



involve fully in the matrimonial life. Hence, the petitioner went to her parental home and issued legal notice to the respondent on 30.04.2021. In reply notice, the respondent stated that the allegations set out in the notice are false. Hence, the petitioner lodged a complaint before All Women Police Station, Lalkudi on 08.07.2021 and the same registered as Crime No.43 of 2021. In the meanwhile, the respondent filed H.M.O.P.No.1 of 2022 before the learned Sub Court, Kulithalai, seeking the relief of dissolution of marriage and she came to know about the filing of aforesaid petition, when she received a notice.

3.The learned counsel for the petitioner further submits that the respondent filed the divorce petition on the ground of cruelty. However, no ground is made out for such allegation. The petitioner is living with her aged mother. Hence, it is very difficult for her to travel from Lalkudi to Kulithali. The petitioner is not having any permanent income to travel for all the hearings and she is under depression because of the attitude of the respondent.

4.The learned counsel would further submit that in similar circumstances, the Hon'ble Apex Court taking into consideration the convenience and the comparative hardship faced by the petitioner/wife had directed to transfer the cases to be tried in Courts near to the petitioner. Thereby, he seeks for transfer.

5.Though the respondent has been served and his name has been printed in the cause list, none appears on behalf of the respondent.

6.The Hon'ble Apex Court in the case of ***Vaishali Shridhar Jagtap.vs. Shridhar Vishwanath Jagtap*** reported in ***(2016) 14 SCC 356*** has held that ***while deciding the transfer of matrimonial proceedings comparative hardship faced by the wife has to be taken into account.*** Further in the case of ***Amitha Shah vs- Virendar Lal Shah***, the Hon'ble Supreme Court reported in ***(2003)10 SCC 609*** has held that ***the convenience of the wife and moreso of the child must be taken into account while deciding the petition for transfer.***

7.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, H.M.O.P. No.1 of 2022 is withdrawn from the file of learned Sub Court, Kulithali and transferred to the file of the learned Sub Court, Lalkudi, for disposal as per law. The learned Sub Judge, Kulithali, is directed to transmit the papers to the file of the learned Sub Court, Lalkudi, forthwith. The learned Sub Judge, Lalkudi, is directed to dispose of the transferred H.M.O.P. No.1 of 2022 on merits and in accordance with law as expeditiously as possible.

8.In the result, this Transfer Civil Miscellaneous Petition



is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

**(\*) Amended as per the order of this court dated 11/04/2022**

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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**To:**

The Sub Court,  
Kulithalai.

**Copy to:**

The Sub Court,  
Lalkudi.

+1 CC to M/s.C. ABUL KALAMAZAD, Advocate ( SR-17073[F] dated 07/04/2022 )

+1 CC to M/s.B. PRAHALAD RAVI, Advocate ( SR-18761[F] dated 13/04/2022 )

Tr.C.M.P. (MD) No.79 of 2022  
06.04.2022

KB(21.04.2022) 3P 5C