



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.16024 of 2019

and

CrI.M.P.(MD)No.9524 of 2019

WEB COPY

K.Jayanthi

... Petitioner/Petitioner

vs.

A.Ganesh Babu

... Respondent/Respondent

PRAYER : Criminal Original Petition filed under Section 407 Cr.P.C, to withdraw the case in DVC No.30 of 2017 on the file of the Additional Mahila Court, Trichy and to transfer the said case to the file of the Judicial Magistrate, Vaniyampadi, Vellore District.

For Petitioner : Mr.C.Vakeeswaran

For Respondent : Mr.Ramakrishnan
for Mr.B.Jameel Arasu

O R D E R

This Criminal Original Petition has been filed, invoking Section 407 Cr.P.C., seeking orders to withdraw the case in DVC No.30 of 2017 pending on the file of the Additional Mahila Court, Trichy and to transfer the same to the file of the Court of the Judicial Magistrate, Vaniyampadi, Vellore District.

2.Admittedly, the marriage between the petitioner and the respondent was solemnized on 21.08.2006 at Sri Bharath Mahal, Vaniyampadi, Vellore District.

3.It is not in dispute that after living for 10 years, due to subsequent misunderstanding, they are living separately.

4.It is also not in dispute that the respondent is working in Trichy City Corporation and the petitioner is now residing in Vaniyampadi, Vellore District.

5.It is evident from the records that previously, the respondent / husband has filed a divorce petition in HMOP No.170 of 2016 on the file of the Family Court, Trichy.



6.The petitioner has filed a transfer petition in Tr.C.M.P.(MD) No.336 of 2018 to withdraw the case in HMOP No.170 of 2016 on the file of the Family Court, Trichy, and to transfer the same to the Subordinate Court, Vaniyampadi, Vellore District. A learned Judge of this Court, taking note of the fact that the petitioner is a woman, has passed an order transferring the case to the Subordinate Court, Vaniyampadi, with further direction to dispose of the case within a period of six months from the date of receipt of the case bundles.

7.It is not in dispute that HMOP petition for divorce is now pending on the file of the Subordinate Court, Vaniyampadi.

8.The petitioner has filed an application under Domestic Violence Act in DVC No.30 of 2017 on the file of the Additional Mahila Court, Trichy, and wherein, she has claimed relief of protection under the Domestic Violence Act, the residential order, the maintenance order and also for compensation.

9.The learned counsel for the petitioner would submit that the petitioner is not having any financial support and she is living with the assistance of her aged old parents and that she is having difficulty to travel from Vellore to Trichy, which is more than 300 kms and that since the divorce petition is also pending before the Subordinate Court, Vaniyampadi, the case in DVC No.30 of 2017 pending on the file of the Additional Mahila Court, Trichy, may be transferred to the file of the Court of the Judicial Magistrate, Vaniyampadi, Vellore District.

10.When the matter is taken up for hearing today (03.02.2022), the learned counsel for the respondent would submit that since the respondent is working in Trichy City Corporation, he finds it difficult to travel all along from Trichy to Vaniyampadi, to attend the hearings.

11.As already pointed out, the divorce petition in HMOP No.170 of 2016 which was pending on the file of the Family Court, Trichy, was ordered to be transferred to the Subordinate Court, Vaniyampadi, and the same is pending before the Subordinate Court, Vaniyampadi.

12.Except the above, the respondent has not raised any other valid or serious objections.

13.Considering the above and also taking note of the fact that the petitioner is a woman and is residing in Vaniyampadi, this Court is inclined to transfer the case from the file of the Additional Mahila Court, Trichy to the Additional Mahila Court, Vellore.



14.In the result, this Criminal Original Petition is allowed and the petition in DVC No.30 of 2017 is ordered to be withdrawn from the file of the Additional Mahila Court, Trichy, and transfer the same to the file of the Additional Mahila Court (Magisterial Level) Vellore. Consequently, connected miscellaneous petition is closed.

15.The learned Judicial Magistrate, Additional Mahila Court, Trichy, is directed to send the case records immediately and the learned Judicial Magistrate, Additional Mahila Court, Vellore, on the receipt of records, is directed to take the case on file and proceed with the case and dispose of the same as expeditiously as possible.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

csm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate,
Additional Mahila Court,
Trichy.

2.The Judicial Magistrate,
Additional Mahila Court,
Vellore.

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-4118[F] dated 04/02/2022)

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and

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