



Tr C.M.P.No.183 of 2023 &
C.M.P.No.4108 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.183 of 2023 &
C.M.P.No.4108 of 2023

R.Subhalakshmi

... Petitioner

Vs.

M.Vishnuvardhanan

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw the case bearing H.M.O.P.No.25 of 2023 on the file of the Family Court, Coimbatore and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr. R.Chandrasudan

For Respondent : Mr.S.Sekar

ORDER

The present Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure to withdraw the case bearing H.M.O.P.No.25 of 2023 on the file of the Family Court, Coimbatore and transfer the same to the file of the Family Court, Chennai.



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2. The brief facts of the case are as follows:-

(i) The petitioner is the wife and the respondent is the husband and their marriage was solemnised on 08.12.2021, by giving 25 sovereigns of gold jewels, silver articles and house hold articles as sridhana to the respondent and the same are lying with the respondent's family and the entire marriage expenses were borne by the parents of the petitioner. At the time of marriage, it was represented by the respondent that he is employed at Dubai and will take necessary arrangement to process VISA and setup matrimonial home at Dubai. Further, the petitioner and the respondent lived together only for 12 days and the respondent proceeded to abroad and the petitioner was tortured and thrown away from the matrimonial house on 13.03.2022. Left with no other alternative, the petitioner proceeded to her parents house at Tirunelveli.

(ii) Suppressing the facts, all of a sudden, the respondent has preferred the H.M.O.P.No.25 of 2023 for divorce on the ground of cruelty with malafide allegations. The distance between the Family Court, Coimbatore to Family Court, Tirunelveli is nearly 400 kms and the petitioner's parents could not accompany the petitioner on account of their age and age old ailments. Further, the petitioner is not working anywhere



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and depending on the meager income of the petitioner's father to sustain their livelihood, hence this petition.

3. The learned counsel for the petitioner would submit the respondent is well aware of the practical difficulty of the petitioner to face proceedings and therefore, has moved this petition. Further, the petitioner is unemployed and do not possess sufficient money even to bear meager travelling expenses.

4. The learned counsel for the petitioner also contends that no prejudice would be caused to the respondent if the above Original Petition is transferred from Family Court, Coimbatore to Family Court, Tirunelveli, since the respondent is residing at overseas and at any event, the respondent is to be represented through power agent. That apart, the family members of the respondent are powerful persons in the locality and the respondent's father is a bar member of legal fraternity at Coimbatore and that the petitioner's parents are aged and could not accompany the petitioner for all the hearing, hence seeks to transfer the Original Petition.



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5. On the other hand, the learned counsel for the respondent filed a detailed counter stating that unable to bear the torture of the petitioner the respondent has preferred H.M.O.P.No.25 of 2023 for divorce. Further, on 18.02.2023, the respondent and his family members went to a temple at Timmachipuram and parked the four wheeler outside the temple, the four persons attached with the petitioner smashed the car and took away the cell phone from the car and the said cell phone contains all the misdeeds committed by the petitioner. Immediately, the respondent lodged a complaint with Lalapet Police Station and police officials received the complaint and issued CSR No.88 of 2023 to the respondent.

6. That apart, the learned counsel for the respondent also submits that if the petition is transferred to Tirunelveli, the petitioner can do anything and the petitioner would assault the respondent during the course of hearing the case at Tirunelveli, thereby seeks police protection.

7. Heard the learned counsel on either side and perused the documents placed on record.



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8. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta]** and **AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]**.

9. Considering the facts and circumstances of the case and taking into account the Judgments of the Hon'ble Supreme Court, as cited supra, coupled with the fact that the petitioner is facing financial difficulties to attend the court proceedings at Coimbatore and is depending only on her aged parents, in the interest of justice, this Court is inclined to allow this petition. Accordingly, the H.M.O.P.No.25 of 2023 pending on the file of Family Court, Coimbatore is withdrawn and transferred to the Family Court, Tirunelveli. Further, taking note of the fact that the persons attached with the petitioner smashed the car of the respondent and grabbed the cell phone and with regard to the said incident, a complaint has been lodged with the Lalapet Police Station and CSR has been assigned and the respondent also apprehends assault by the petitioner, this Court is inclined to grant police Protection to the respondent / husband.



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With the above observation, the present Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed. The respondent is permitted to approach the concerned Jurisdictional Police to provide police protection at his own cost and accordingly, the Concerned Jurisdictional Police shall provide police protection as and when required. No costs.

14.07.2023

Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order
ssd

To

1. The Family Court, Coimbatore
2. The Family Court, Tirunelveli
3. The Inspector of Police,
Tirunelveli



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V.BHAVANI SUBBAROYAN, J.,

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