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Tr.C.M.P.No.220 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28/4/2023

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Transfer Civil Miscellaneous Petition No.220 of 2023

a n d

C.M.P.No.4931 of 2023

Radhika ... Petitioner

Vs

C. Vinodhan ... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India to withdraw H.M.O.P.No.949 of 2022 which is pending before V Additional Family Court, Chennai and transfer the same to the Subordinate Court, Tambaram for disposal in accordance with law.

For Petitioner ... Mr.M.Kalaiyaran

For Respondent ... Mr.Yagna Narayanan



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ORDER

This Transfer Civil Miscellaneous Petition is filed by the wife against her husband, under Section 24 of the Code of Civil Procedure, seeking to transfer H.M.O.P.No.949 of 2022, pending on the file of the learned V Additional Family Court, Chennai.

2. The facts in brief leading to the filing of this Transfer Civil Miscellaneous Petition are as follows:-

The marriage of the petitioner with the respondent was performed, on 23/8/2018, at KRS Choda Mahal (Near MGR University), Poonamallee High Road, Chennai. They gave birth to a female child, on 6/8/2019. Thereafter, the respondent started demanding dowry from the petitioner and her family members. Even though the respondent was financially sound, he refused to spend money for the medical requirements. He never showed any interest in leading matrimonial life. The respondent abused the petitioner in filthy language, whenever she asked money for maintenance and ultimately, she was sent out of the matrimonial home. Hence, she filed a petition for maintenance, in M.C.No.47 of 2022, on



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the file of the learned Judicial Magistrate No.I, Tambaram. The respondent has filed a petition for restitution of conjugal rights in H.M.O.P.No.949 of 2022 on the file of the Sub-Court, Tambaram.

3. According to the petitioner, she is living with her parents at Selaiyur, Tambaram which is 6 kms., from the Court and they have got health issues and there is no one to accompany her to the Court to attend H.M.O.P.No.949 of 2022 at Tambaram and it is not safe to travel alone and she is finding it difficult to find proper transportation. Therefore, sought for transfer of H.M.O.P.No.949 of 2022 from the learned V Additional Family Court, Chennai to Subordinate Court, Tambaram.

4. The respondent has filed a detailed counter admitting the marriage with the petitioner, on 23/8/2018 and setting up of matrimonial home at Anna Nagar. According to him, the marriage expenses, though agreed to be shared equally, the petitioner's family had paid Rs.4 lakhs, whereas, the respondent had paid Rs.8 lakhs. He has alleged that the petitioner used to pick up quarrels for petty things. He has arranged customary seemandham and the expenses were borne by the respondent. He has given all his support, when she was in the Hospital. Thereafter, she has



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not returned from her parents house. On 7/2/2022, when the respondent expressed his desire to continue the matrimonial life, the petitioner never turned up. The petitioner has been working in C.I.T.Industry as Test Lead in Cap Gemini and earning around Rs.75,000/- p.m., but she never disclosed about her earnings.

5. It is also submitted that she is attending Office at OMR and the child is always taken care by her relatives and there is no compulsion to bring the child every time to the Court. Thus, the transfer sought on the grounds of safety and security is purely a figment of imagination and hence sought for dismissal of the Civil Revision Petition.

6. Heard Mr..Kalaiyarasan, learned counsel for the petitioner and Mr.S.Yagnanarayanan, learned counsel for the respondent.

7. There is no dispute that marriage of the petitioner and respondent took place on 23/8/2018 and after the birth of a girl child, disputes arose between them and thereafter, the petitioner has not joined the Company of the respondent from her parents house. According to the petitioner, the respondent has never taken care of her health and other financial issues.



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She was being harassed and demanded additional dowry. The respondent sent the petitioner to her parents house for bringing money.

On the other hand, the respondent contends that the respondent has performed seemandham. She was working in IT Industry as Test Lead in Cap Gemini and earning Rs.75,000/- p.m., but not disclosed the job and income. The allegation and counter allegation will be considered by the Family Court while disposing of H.M.O.P.No.949 of 2022 which was filed for restitution of conjugal rights.

8. The limited point that arises for consideration in this petition is whether the petition pending on the file of learned V Additional Family Court, Chennai can be transferred to Subordinate Court, Tambaram.

9. According to the petitioner, she has been residing at Tambaram along with her parents and they are not keeping good health and that there is no one to take care, and there is no safety from Tambaram to Paris to attend the Court proceedings. On the other hand, the learned counsel appearing for the respondent submits that transport facilities are absolutely available and it is very safe to attend the Court from her



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parents home and submitted that she has invented these grounds only for the purpose of transferring the case.

10. One of the major grounds raised by the respondent is that the petitioner himself at para 9 of the affidavit that the respondent is an influential person at Tambaram and there is no safety and security for the petitioner to travel to Tambaram. However, it is stated by the learned counsel for the petitioner that it is a typographical mistake. She has mentioned in the same paragraph that the respondent had filed a petition in H.M.O.P.No.949 of 2022 in the Subordinate Court at Tambaram which is also factually incorrect. The respondent has filed H.M.O.P.No.949 of 2022 not before the Subordinate Court, Tambaram. He has filed the same before the learned V Additional Family Court, Chennai. It is also stated that the intention of the respondent is to drag her to Tambaram and harass. This statement is also incorrect because she herself is staying in Tambaram. Hence, these statements need not be taken into consideration.

11. Coming to the apprehension of the petitioner is concerned, the respondent has not denied the fact that the petitioner has been residing at



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Tambaram along with her parents and child. The respondent has not denied the ill health of the petitioner's parents. In the counter, it is stated by the respondent that there is no necessary to bring the child for every hearing and moreover, to bring the child all the way from Tambaram and exposing the child to the Court environment is also not correct.

12. In SUMITHA SINGH Vs. KUMAR SANJAY AND ANOTHER, reported in AIR 2002 SC 396, the Hon'ble Supreme Court has held that matrimonial proceedings filed by the husband can be sought to be transferred to the Court having jurisdiction over the place wherein the wife is living on the ground of convenience.

13. In VINITHA JITESH TOLANI @ MANMEET LAGHMANI Vs. JITESH KISHORE TOLANI reported in 2010 (6) Bom.C.R.145, wherein the Hon'ble Supreme Court transferred husband's petition from the Court of Civil Judge at Goa to the Family Court at Delhi and dismissed the petition filed by the husband seeking transfer of the wife's petition filed against the husband.

14. In R.SRIDHARAN Vs. PRESIDING OFFICER, PRINCIPAL



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FAMILY COURT, CHENNAI and R.SUKANYA, reported in (2010) 4

CTC 822, it is stated that the convenience of the wife is paramount and also intend to confer benefit on the wife in respect of the choice of jurisdiction.

15. Therefore, considering the above and also the facts placed before this Court, it is clear that the convenience of wife is paramount in the application sought for transfer of matrimonial case from one Court to another. The petitioner has made out a case before this Court that she is residing in Tambaram, whereas the respondent husband is residing at Anna Nagar and convenient to reach the Subordinate Court, Tambaram. No prejudice would be caused to the respondent, if H.M.O.P.No.949 of 2022 is transferred from the file of V Additional Family Court, Chennai, to the learned Subordinate Court, Tambaram.

16. Accordingly, **Transfer Civil Miscellaneous Petition is allowed** and H.M.O.P.No.949 of 2022, pending on the file of the learned V Additional Family Court, Chennai, is hereby directed to transfer to the learned Subordinate Court, Tambaram. The learned V Additional Family Judge, Chennai is directed to transfer the records pertaining to



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H.M.O.P.No.949 of 2022 to the file of the Subordinate Court, Tambaram,
as expeditiously as possible.

No costs. Consequently, the connected Miscellaneous Petition is closed.

28/4/2023

Index :yes/no

Neutral Citation: Yes/No

mvs.

To

1. V Additional Family Judge, Chennai.
2. The Subordinate Judge, Tambaram.

Dr.D.NAGARJUN,J

mvs.



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