



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.09.2023

Coram:

The Hon'ble Mr.Justice V.SIVAGNANAM

**Crl.O.P.No.18442 of 2020
and Crl.M.P.Nos.7212 & 7213 of 2020**

K.Venkatesan

...Petitioner

Versus

1.S.Uma

2.Minor V.Sandya

3.Minor V.Hari Easwar

...Respondents

This Criminal Original Petition is filed under Section 482 r/w. 407 of Cr.P.C praying to transfer the M.C.No.27 of 2020 from the Judicial Magistrate Court, Lalgudi to before the appropriate Court at Salem.

For Petitioner : Mr.A.Kumar

For Respondents : Mr.E.Narayanan



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ORDER

This criminal original petition has been filed by the petitioner seeking to transfer the case in M.C.No.27 of 2020 from the Court of Judicial Magistrate, Lalgudi to an appropriate Court at Salem.

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

The petitioner and the 1st respondent are husband and wife. They got married on 07.07.2002 as per the Hindu rites and customs. Through their wedlock, they have one daughter (2nd respondent) and one son (3rd respondent). Due to some misunderstanding between the petitioner/husband and 1st respondent/wife, they got separated during the year 2019. While so, the 1st respondent/wife had filed a petition in H.M.O.P.No.101 of 2019 before the Subordinate Court, Lalgudi seeking divorce. During the pendency of H.M.O.P.No.101 of 2019, petitioner/husband had filed a Transfer Civil Miscellaneous Petition in Tr.C.M.P.No.965 of 2019 before this Court seeking to withdraw the H.M.O.P.No.101 of 2019 pending before the Subordinate Court, Lalgudi and transfer the same to the Family Court,



Salem. This Court vide its order dated 27.02.2020, disposed of the said

Tr.C.M.P.No.965 of 2019 by observing as follows:

“6. Following the aforesaid judgment, I had also granted divorce to parties even at the time of hearing a Transfer Petition in the case of M.Kalpana Sridevi -vs- C.Swaminathan [Tr.C.M.P.Nos.897 and 898 of 2019] decided on 17.12.2019. In view of the precedent and taking note of the submissions made on either side and in the interest of parties, H.M.O.P.No.101 of 2019 filed by the respondent/wife for annulment of marriage is allowed, thereby dissolving the marriage dated 07.07.2002 held between the petitioner/husband and the respondent/wife, in terms of the Joint Memo dated 27.02.2020. In view of the disposal of H.M.O.P.No.101 of 2019, no further order is required to be passed in the present transfer petition and accordingly, this petition shall stand disposed of.

7. The parties are directed to produce a copy of this order to the respective Courts for closure of the cases, consequent to the grant of divorce on mutual consent on the basis of the Joint Compromise Memo dated 27.02.2020. Insofar as the criminal case in C.C.No.976 of 2019 is concerned, as a quash petition in Crl.O.P.No.24746 of 2019 is pending before this Court, it is open to the parties to bring the above order to the knowledge of the learned Judge for passing suitable orders. The Joint Memo of Compromise dated 27.02.2020 shall form part of this order. No costs. Consequently, connected miscellaneous petition is closed.”



Subsequent to the aforesaid order, the 1st respondent/wife, had filed a petition in M.C.No.27 of 2020 before the Judicial Magistrate Court, Lalgudi, praying to grant an order directing the petitioner/husband to pay the maintenance at the rate of Rs.25,000/- for her and Rs.7,500/- each for her two minor children (respondents 2 & 3) per month, from the date of petition. Aggrieved over the same, the petitioner/husband has filed the present petition before this Court.

3. The learned counsel for the petitioner/husband submitted that both the petitioner/husband and the respondents are residing in Salem. Therefore, the case in M.C.No.27 of 2020 may be transferred from the Court of Judicial Magistrate, Lalgudi to an appropriate Court at Salem.

4. *Per Contra*, the learned counsel appearing for the respondents submitted that both the petitioner and the respondents are not residing in Salem. The petitioner/husband alone is working in Salem, but, the respondents are residing in Lalgudi and not in Salem.



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4.1. The learned counsel drew the attention of this Court to the order dated 27.02.2020 in Tr.C.M.P.No.965 of 2019, wherein, this Court has observed that H.M.O.P.No.101 of 2019 is allowed and thereby, the marriage held between the petitioner/husband and 1st respondent/wife is dissolved in terms of the Joint Compromise Memo dated 27.02.2020. Further, it has observed that in view of the disposal of H.M.O.P.No.101 of 2019, no further order is required to be passed in Tr.C.M.P.No.965 of 2019 and accordingly, the same shall stand disposed of.

4.2. The learned counsel submitted that since this Court vide its order dated 27.02.2020, allowed the H.M.O.P.No.101 of 2019 filed by the 1st respondent/wife and also, disposed of the Tr.C.M.P.No.965 of 2019 filed by the petitioner/husband, there is no other option to the petitioner/husband except to pay the monthly maintenance to the respondents. He also submitted that if the case in M.C.No.27 of 2020 is transferred from the Court of Judicial Magistrate, Lalgudi to an appropriate Court at Salem, the 1st respondent/wife and her two children (respondents 2 & 3) would face



many difficulties because they are residing in Lalgudi which is far away from Salem. Therefore, this petition may be dismissed.

5. Heard the learned counsel on either side and perused the materials placed before this Court.

6. As far as this case is concerned, the petitioner and 1st respondent are husband and wife. The 1st respondent/wife had filed H.M.O.P.No.101 of 2019 before the Subordinate Court, Lalgudi, seeking divorce. Pending H.M.O.P.No.101 of 2019, the petitioner/husband had filed Tr.C.M.P.No.965 of 2019 before this Court, seeking to withdraw the H.M.O.P.No.101 of 2019 on the file of Subordinate Court, Lalgudi and transfer the same to Family Court, Salem. On the basis of the Joint Compromise Memo dated 27.02.2020, this Court vide order dated 27.02.2020, granted divorce to the petitioner/husband and 1st respondent/wife on mutual consent. Thereafter, the 1st respondent/wife filed M.C.No.27 of 2020 before the Judicial Magistrate, Lalgudi, praying to grant an order directing the petitioner/husband to pay the maintenance at the rate of Rs.25,000/- for her



and Rs.7,500/- each for her two minor children (respondents 2 & 3) per month, from the date of petition. Hence, the present petition.

7. Considering the above facts and circumstances of the case and also, taking note of the fact that the 1st respondent/wife and her two minor children (respondents 2 & 3) are permanently residing in Lalgudi, this Court is of the opinion that it would not be appropriate to transfer the petition in M.C.No.27 of 2020 from the Court of Judicial Magistrate, Lalgudi to an appropriate Court at Salem. Further, the petitioner's case deserves no merits of consideration. Hence, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

19.09.2023

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Judicial Magistrate,
Lalgudi.

2.The Public Prosecutor,
High Court, Madras.

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V.SIVAGNANAM, J.

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