



Crl.O.P.No.20724 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.20724 of 2022

and

Crl.M.P.No.13566 of 2022

V.Ezhumalai

... Petitioner

Vs.

Vanisree

... Respondent

Prayer : Criminal Original Petition has been filed under Section 407 of Criminal Procedure Code to withdraw the proceedings in M.C.No.154 of 2022 on the file of the V Additional Family Court, Chennai and transfer the same to the file of the Family Court, Puducherry having competent jurisdiction.

For Petitioner : Mr.S.Sriram

For Respondent : Mr.Perinbanathan
for Mr.P.Praveen Samadhanam



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ORDER

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The petitioner/respondent in M.C.No.154 of 2022 filed this petition seeking transfer of above maintenance case from the file of V Additional Family Court, Chennai to the file of the Family Court, Puducherry.

2.The contention of the petitioner is that the marriage between the petitioner and the respondent took place on 12.02.2016 at Akasharatha Hotel, Villianur, it was an arranged marriage and out of the wedlock, they do not have any children. The petitioner has been consistently subjected to cruelty by the respondent and her family members, thereafter unable to bear the same the petitioner filed M.O.P.No.148 of 2017 before the Family Court, Puducherry seeking divorce on the ground of cruelty. Thereafter, as a counter blast the respondent filed a petition seeking restitution of conjugal rights in H.M.O.P.No.1785 of 2017 before the I Additional Family Court, Chennai. After filing this petition, Tr.C.M.P.No.802 of 2017 was file db by the respondent seeking transfer of M.O.P.No.148 of 2017 from the file of the Family Court, Puducherry to the I Additional Family Court, Chennai for joint trial. This Court considering all the aspects had found the threat to



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petitioner's life be real for the reason that on 17.02.2016 at 10.45 p.m the respondent and her family members attacked the petitioner who had sustained serious injuries, got admitted in Government General Hospital, Puducherry on 18.12.2016 and took treatment as inpatient till 20.12.2016. For this attack, the petitioner lodged a complaint with Villianur Police Station against the respondent's family members. Based on the complaint, a case in Crime No.210/2017 was registered against the respondent and her family members for the offence under Sections 451, 342, 324 r/w. 34 of IPC. Thereafter, on conclusion of investigation, charge sheet filed and after committal, case has been now numbered as S.C.No.100 of 2019 which is pending trial before the Principal District Sessions Court, Puducherry. In the meanwhile, this Court transferred both the Family Court cases, namely, M.O.P.No.148 of 2017 and H.M.O.P.No.1785 of 2017 to a common place to the file of Family Court, Chengalpattu and the cases were re-numbered as F.C.O.P.No.114 of 2018 and F.C.O.p.No.115 of 2018. After full-fledged trial, the Family Court, Chengalpattu by judgment dated 20.01.2021 granted divorce to the petitioner on the ground of cruelty and dismissed the petition filed by the respondent for restitution of conjugal rights. Further, since the



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respondent and her family members are attending the Sessions Court at Puducherry, as a counter blast Maintenance Case in M.C.No.154 of 2022 was filed which is pending before the V Additional Family Court, Chennai. It is further submitted that the case is at the stage of Mediation, when the petitioner appeared before Mediation the petitioner could feel the persistent threat to his life and hence, he moved the present petition.

3.Heard Mr.S.Sriram, learned counsel appearing on behalf of the petitioner.

4.Mr.Perinbanathan, learned counsel representing the learned counsel for the respondent submitted that the respondent is a house wife without any earnings and hence, the petitioner is duty bound to maintain his divorced wife, for this reason the respondent filed a maintenance case. He would submit that in filing of maintenance petition, the domicile of the petitioner to be considered and in this case, the respondent is residing at Chennai and hence, the maintenance case has been filed in Chennai. He further submits that the respondent has gone to the extent of Mediation and was willing to



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resolve the dispute between the respondent and the petitioner by giving quietus to both the maintenance case as well as the Sessions case which is pending trial in Puducherry. He would further submit that if the respondent is made to come all the way from Puducherry, she would incur expenditure as well as hardship.

5.In reply, the learned counsel for the petitioner submitted that the petitioner is not willing for a compromise, on the other hand insisting the respondent's family to attend the Sessions Court regularly at Puducherry. He would submit that the petitioner is employed as a Teacher and for the maintenance case, he has to travel from Puducherry to Chennai. Further, there is a threat to his life, after the alleged stray incident which had taken place in the year 2017, there have been threats to the petitioner. He further submitted that the petitioner's claim is that threat to his life is persistent and only for that purpose, the present petition is filed.

6.Considering the submissions made and on perusal of the materials, it is seen that this Court in Tr.C.M.P.No.802 of 2017 had in detail gone into



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the dispute between the petitioner. It is also not in dispute that there was an attack on the petitioner and as sessions case is now pending before the Principal District Sessions Court, Puducherry. At the same time, the difficulty of the respondent to travel all the way to Puducherry is also to be considered. The utmost consideration is that both the petitioner and the respondent to attend the Court without any apprehension of fear and hindrance and also without any disturbance. In view of the same, this Court feels that it would be appropriate M.C.No.154 of 2022 which is pending before the V Additional Family Court, Chennai to be transferred to the file of the Family Court, Chengalpattu where the earlier proceedings between the parties have been conducted and disposed of.

7. Accordingly, the proceedings in M.C.No.154 of 2022 is transferred from the file of the V Additional Family Court, Chennai to the file of the Family Court, Chengalpattu.



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8. With the above direction, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order/Non-Speaking Order
cse

To

1. The Judge,
V Additional Family Court,
Chennai.

2. The Judge,
Family Court,
Chengalpattu.



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M.NIRMAL KUMAR, J.

cse

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