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CrI.O.P.No.27453 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.27453 of 2022

1.C.Rayappa Stephen @ Stephen

2. Charles Peter

3. Stella Arokiamary

4. Accila Immaculate

... Petitioners

Vs.

J.Arokiamary

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to withdraw the D.V.A.No.44/2020, from the file of the Special Judge for DVA cases at Coimbatore and to transfer the same to the judicial Magistrate – I at Gobichettipalayam, Erode District.

For Petitioners : Mr.D.Senthilkumar

For Respondents : Mr.K.S.Karthikraja

ORDER

The first petitioner being the husband of the respondent and the other petitioners are in-laws of the respondent have filed this petition seeking transfer of D.V.A.No.44 of 2020 filed by the respondent before the Special Judge for DVA cases at Coimbatore.

2. The contention of the petitioner is that, the first petitioner is the



husband, second and third respondents are his parents and the fourth petitioner is the sister of the petitioner. The respondent had filed a case against them under the Domestic Violence Act, 2005 seeking protection and also seeking a sum of Rs.50,00,000/- towards monetary relief for the financial loss she suffered on account of the marriage and other expenses relating to the first petitioner. Further, he submits that the marriage between the first petitioner and the respondent had took place on 01.02.2009 in St.Francis Xavier Church, Periakodiveri, Erode District. On 16.10.2010, their first child viz., C.R.Jivine was born and the second child viz., C.R.Santo was born to them on 06.08.2012. The respondent is employed as a Teacher at Panchayat Union Primary School at Elur, Gobichettipalayam Taluk, Erode District and their children studied at Gobichettipalayam. This being so, the respondent only to harass the petitioner and his family members had filed Domestic Violence Case before the Special Court, Coimbatore.

3. He further submitted that filing of the case at Coimbatore is caused prejudice, harassment and suffering not only to the first petitioner and also to other petitioners viz., his parents and his sister. The second and third petitioners are his age old parents and the fourth petitioner, who



is married much before the first petitioner and she has settled along with her family at Coimbatore. Hence, in order to transfer the case from Special Court, Coimbatore to Judicial Magistrate -I at Gobichettipalayam, Erode district, the petitioners have filed this petition.

4. Learned counsel for the respondent strongly opposed and denied the allegations made by the petitioners. Earlier, the first petitioner had filed transfer civil miscellaneous petition before this Court for transfer of divorce case in D.O.P.No.861 of 2020, which was filed by the respondent before the Hon'ble Family Court at Coimbatore on the ground of cruelty with identical allegations. Further, this Court had dismissed the transfer civil miscellaneous petition in Tr.C.M.P.No.996 of 2022 filed by the first petitioner herein by finding that the petitioner has not made out any *prima facie* case for the purpose of transferring the case.

5. Considering the facts and circumstances of the case, this Court is of the considered view that the Hon'ble Supreme Court as well as this Court has time and again held that in the case of the DVC, Maintenance, matrimonial dispute, it is for the affected wife to choose the jurisdiction of the Court. In this case, the respondent has filed the Domestic Violence



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Case before the Special Judge for DVA cases at Coimbatore, which is convenient for her in prosecuting the case.

6. In view of the same, this Court is not inclined to entertained this petition, hence, this criminal original petition is dismissed.

7. Learned counsel appearing for the petitioners submitted that the petitioners 2 and 3 are age old parents of the first petitioner and the fourth petitioner has settled with her family at Coimbatore and she has to take care of her children, hence, their appearance before the Lower Court is causing great inconvenience to them.

8. It for the petitioners 2 to 4 to file appropriate petition before the Trial Court and the Trial Court shall consider the same sympathetically and give the relief, if they are entitled to.

20.06.2023

Index: Yes/No
mp

To



CrI.O.P.No.27453 of 2022

1. The Superintendent of Police,
Thiruvallur District, Thiruvallur.

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2. The Inspector of Police,
Kararpettai Police Station,
Thiruvallur District.

3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

mp

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