



Tr.C.M.P(MD)No.93 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Tr.C.M.P(MD)No.93 of 2023

and

C.M.P(MD)No.2380 of 2023

S.Sudha

... Petitioner/Respondent

-Vs-

V.Rathinavelraja

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, praying to withdraw the case in H.M.O.P.No.301 of 2022 from the file of the learned Principal Subordinate Court, Tenkasi and to transfer the same to the file of the learned Subordinate Court at Valliyoor.

For Petitioner : Mr.S.Vasanth Yuges

For Respondent : Mr.D.Srinivasa Ragavan



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ORDER

This Petition has been filed for a direction to withdraw the case in H.M.O.P.No.301 of 2022 from the file of the learned Principal Subordinate Court, Tenkasi and to transfer the same to the file of the learned Subordinate Court at Valliyoor.

2.It appears that the marriage between the petitioner and the respondent was solemnized on 11.03.2016 and that they were living in Dubai. Thereafter, it appears that in April 2020, the petitioner and the respondent returned to India and stayed in the respondent's parents house in Tenkasi District. It appears some difference of opinion arose between the family and they were mutual reconciliated, wherein it is decided that they will reside elsewhere separately. The respondent thus came to take the petitioner. At that time, there was a commotion, as the petitioner wanted her father viz., Sankara Subramanian to accompany her while shifting to the new house. In the heat of the moment, dispute arose. The respondent has given a police complaint before the Vallioor Police Station on 18.11.2022, which has been registered in Crime No.335 of 2022. It appears that the petitioner and her father have also obtained anticipatory bail from this Court.



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In the affidavit filed in support of this petition, the petitioner has expressed her difficulties in appearing before the Sub-Court, Tenkasi in H.M.O.P.No.301 of 2022. The relevant portion of the affidavit reads under:

“11.I state the now the respondent has filed a petition for divorce in H.M.O.P.No.301 of 2022 before the learned Principal Subordinate Judge, Tenkasi with false and frivolous allegations against me including that as if I am compelling him for a separate family and that I am adamant and money minded. These are all utter false allegations invented cunningly for the purpose of divorce petition. I received summons for the said H.M.O.P.No.301 of 2022 and the first hearing is on 08.03.2023. I state that the respondent has lucarative income in his job. I have one small female baby aged 1.5 years and it is practically impossible for me to travel nearly 220 Kms to conduct the H.M.O.P.No.301 of 2022 with the child. This is a wanton harassment inflicted not only upon me by the respondent, but also a harassment and torture upon my small baby. Hence, unless the above said H.M.O.P.No.301 of 2022 is transferred from Principal Subordinate Court, Tenkasi, to the Subordinate Court, Valliyoor, I would be put to irreparable sufferings and hardships. On the other hand no prejudice would be caused to the respondent, if the case is transferred to Valliyoor. The



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Hon'ble Supreme Court has also held that convenience of wife is to be given preference in matrimonial issues.”

3.It is further stated that the respondent now returned back to Dubai in connection with the avocation. Therefore, no prejudice will be caused even if the case is conducted at the Principal Sub-Court, Tenkasi or the Sub-Court, Vallioor, as prayed for.

4.Per contra, the learned counsel appearing for the respondent submits that there is a danger and threat to the life and liberty of the respondent and therefore, the case may be transferred to any other Court, outside the jurisdiction of the Sub-Court, Valliyoor.

5.I have considered the rival submissions made on either sides.

6.Prima facie, it appears, that the respondent has filed a criminal case in Crime No.335 of 2022 against the petitioner and her parents. Be that as it may, the above complaint in Crime No.335 of 2022 has to be investigated and has to be closed either by filing a charge sheet or by dropping the complaint filed, the



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respondent is also not in India and is in Dubai in connection with his avocation. It is likely the respondent may not appear in person for either regular hearing in H.M.O.P.No.301 of 2022 before the Principle Subordinate Court, Valliyoor or Tenkasi.

7.Considering the difficulties expressed by the petitioner and considering the fact that the parties are blessed with the minor child, Court is inclined to allow the Transfer Civil Miscellaneous Petition by ordering transfer of H.M.O.P.No.301 of 2022, pending on the file of the Principal Sub-Court, Tenkasi to the Sub-Court at Valliyoor. The Sub-Court, Valliyoor, shall endeavour to dispose the H.M.O.P.No.301 of 2022 as expeditiously as possible. If possible, the Court may also endeavour to refer the parties to Mediation, as the difference of opinion between the petitioner and the respondent appears to be too trivial but, drastic steps have been taken by filing criminal complaint. Accordingly, this petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2023

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C.SARAVANAN, J.

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To:

- 1.The Principal Subordinate Court,
Tenkasi.
2. The Subordinate Court,
Valliyoor
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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and

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