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CrI.O.P.(MD)No.12683 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.03.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

CrI.O.P.(MD) No.12683 of 2021
and
CrI.M.P.(MD)No.6482 of 2021

V.P.Arun

... Petitioner

Vs.

Mahalakshmi

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to withdraw the maintenance petition in M.C.No.39 of 2021, pending on the file of the Family Court, Tirunelveli and to transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.R.Rengarajan

For Respondents : Mr.K.P.Narayanakumar

ORDER

This petition is filed to transfer the maintenance petition in M.C.No.39 of 2021 on the file of the Family Court, Tirunelveli to the Family Court, Madurai.



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2. On the side of the petitioner, it is stated that the petitioner filed a petition in H.M.O.P.No. 248 of 2019 on the file of the Principal Sub Court, Thanjavur, for a prayer of dissolution of marriage and the same was transferred to the Family Court, Thanjavur and was numbered as H.M.O.P.No.,189 of 2019. In the meanwhile, during the pendency of the petition for dissolution of marriage, the respondent-wife filed a petition in H.M.O.P.No.229 of 2020, on the file of the Family Court, Tirunelveli for a relief of restitution of conjugal right.

3. It is further stated that the petitioner filed a petition in Tr.C.M.P.(MD)No.83 of 2021 for the transfer of H.M.O.P.No.229 of 2020 to the file of the Family Court, Thanjavur to be tried along with H.M.O.P. No.189 of 2019. After receiving notice, the respondent – wife filed Tr.C.M.P.(MD)No.163 of 2021 for transferring the case in H.M.O.P.No. 189 of 2019 on the file of the Family Court, Thanjavur to be transferred to the Family Court, Tirunelveli. This Court, on consent of both sides, passed a common order in both the Tr.C.M.P.(MD)Nos.83 & 163 of 2021, transferred both the cases to be tried in the Family Court, Madurai. Both the cases are transferred to the file of the Family Court, Madurai and the petitions are pending. The respondent-wife filed a petition for



maintenance in M.C.No.39 of 2021. On 27.07.2021, inspite of the order passed by this Court in Tr.C.M.P.(MD)Nos.83 and 163 of 2021, a petition not to harass the petitioner, the respondent-wife filed a petition in M.C.No.39 of 2021 on the file of the Family Court, Tirunelveli. If M.C.No.39 of 2021 is tried independently, it will lead to multiplicity of proceedings and the parties will be fighting before various Forum and the petition is to be transferred to the file of the Family Court, Madurai.

4. On the side of the petitioner-husband, it is stated that only on the consent of both sides the earlier transfer order was passed by this Court. Pendency of this Maintenance Case petition will lead to two different Forum and prayed the M.C. to be transferred to the Family Court, Madurai.

5. On the side of the respondent-wife, it is stated that after the transferring of the case, both the cases were taken on file before the Family Court, Madurai. Already examination of witnesses was over, cross-examination was over. The case is pending at the stage of arguments and transferring the M.C case before the Family Court, Madurai, will not serve any purpose.



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6. On the side of the petitioner-husband, it is stated that those petitions are pending for respondent side evidence and this case is posted for examination of respondent side further witness.

7.It is stated that the prayer in both the H.M.O.P petitions are different. The prayer in one of the petition is for dissolution of marriage and other is for restitution of conjugal rights and the prayer in the M.C case is different. Though the petitioner has filed this petition for transferring M.C.No.39 of 2021 from the Family Court, Tirunelveli to the Family Court, Madurai. The petitioner - husband has failed to furnish the details regarding the case number on the file of the Family Court, Madurai.

8. Since the register number of the cases were not furnished, no purpose will be served, in transferring the case to the Family Court, Madurai. Since only a maintenance case is pending before the Family Court, Tirunelveli, there is no necessity to transfer the case. Already this Court in a common order in Tr.C.M.P.(MD)Nos.83 and 163 of 2021 has dispensed with the personal appearance of the parties, except on the date of hearing, on which, the learned Judge insisting the parties to



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appear before the Court. Hence, the same condition will be applicable to this case.

9. The personal appearance of the parties before the Family Court, Tirunelveli, is dispensed with, except on the date of hearings when the learned Judge insist upon the parties to appear before the Court. Both the parties may appear before the Court through their counsel. With the above observation, this Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Ls

27.03.2023

To

- 1.The Family Court,
Tirunelveli
- 2.The Family Court,
Madurai.
3. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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R.THARANI. J.

Ls

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