



Tr.C.M.P.No.361 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Tr.C.M.P.No.361 of 2024

1.A.Sherin Rizwana

2.Fahadh Rahman (Minor),
Rep. by Guardian A.Sherin Rizwana,
S/o.A.K.Mohamed Ashik Rahman,
Plot No.4, 2B Sairam Avenue,
First Cross Street, Valasaravakkam,
Chennai-600 087.

... Petitioners

Vs.

A.K.Mohamed Ashik Rahman

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the M.C.No.1 of 2024 pending on the file of the District Munsif cum Judicial Magistrate Court, Pallavaram and to transfer it to the II Additional Family Court, Chennai to be jointly tried along with O.S.No.256 of 2023 on the file of II Additional Family Court at Chennai (filed by the respondent herein).

For Petitioners : Mr.R.Rajesh Kumar

For Respondent : No Appearance



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ORDER

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The 1st petitioner, estranged wife of the respondent for herself and for her nine months infant/2nd petitioner filed this transfer civil miscellaneous petition to transfer the maintenance case in M.C.No.1 of 2024 from the file of the Judicial Magistrate Court, Pallavaram to the file of the II Additional Family Court at Chennai wherein the respondent/husband filed a divorce petition in O.S.No.256 of 2023.

2.Despite service of notice and name printed in the cause list, no representation for the respondent either in person or by any counsel.

3.The learned counsel for the petitioners submitted that the respondent is a distant maternal side relative of the 1st petitioner and the marriage between them was solemnized on 31.08.2022 as per Islamic Traditional and Custom at Shiraz Hall, No.14, Whanells Road, Egmore, Chennai. At the time of marriage, customary articles and jewels presented to the respondent. After the marriage, matrimonial house was set up at No.11, Krishnaswamy Street, Ganapathypuram, Chrompet, Chennai. The



respondent is a Dentist by profession making handsome earnings, he used to dance to the tunes of his mother and used to ill-treat and assault the 1st petitioner on many occasions. She was used as housemaid and asked to do all household chores and thereby, she was put to physical and mental torture. The respondent's relatives also joined the respondent and abused the 1st petitioner. He further submitted that during the month of October, 2023, the 1st petitioner got conceived and the respondent and his parents forced the petitioner to abort pregnancy which she refused. Thereafter, the 1st petitioner was wantonly made to climb stairs often so that the pregnancy gets aborted. On 25.02.2023, baby shower function held, after that the petitioner was taken to her father's house and the 2nd petitioner born on 07.06.2023 at Delta Hospital, Adambakkam, Chennai. The respondent not bothered to visit the petitioners in hospital. On the contrary, the respondent sent Talaq Nama, dated 17.07.2023 to the 1st petitioner with false allegations and also approached the Family Court seeking divorce in O.S.No.256 of 2023. The 1st petitioner was not allowed to enter matrimonial home, hence, she filed maintenance petition in M.C.No.1 of 2024 seeking maintenance of Rs.30,000/- for her and another Rs.30,000/- for the 2nd petitioner. This



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petition initially filed before the Family Court in M.C.SR.No.2613 of 2023 which was returned with an endorsement Family Court has no territorial jurisdiction to entertain the same. Despite the 1st petitioner's representation, again it was returned. Left with no other option, the 1st petitioner filed the maintenance case in M.C.No.1 of 2024 before the learned Judicial Magistrate, Pallavaram.

4.It is further submitted that now the 1st petitioner finding difficulty to attend the Court and also to take care of her infant baby. Added to it, the 1st petitioner is to attend the Family Court proceedings in O.S.No.256 of 2023. If the maintenance case is transferred and tried along with the divorce case, it will be convenient for the petitioner.

5.Considering the submissions and on perusal of the materials, it is seen that the 1st petitioner is facing difficulty in appearing in the maintenance case and in the divorce proceedings along with the 2nd petitioner, a nine month old infant.



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6.In view of the above, this Court withdraws the maintenance case in M.C.No.1 of 2024 from the file of the Judicial Magistrate Court, Pallavaram and transfers the same to the file of the II Additional Family Court at Chennai to try along with O.S.No.256 of 2023.

7.In the result, this transfer civil miscellaneous petition stands disposed of. No costs.

11.06.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes

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Note: Issue Order Copy on 13.06.2024.

To

1.The II Additional Family Court,
Chennai.

2.The Judicial Magistrate Court,
Pallavaram.



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M.NIRMAL KUMAR, J.

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