



Tr.CMP.No.358 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Tr.CMP.No.358 of 2024

and

C.M.P.No.7534 of 2024

V.Arthi

... Petitioner

Vs.

S.Sathish Kumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code to withdraw the petition in H.M.O.P.No.203 of 2023 on the file of the Subordinate Court, Attur and transfer the same and to be tried along with H.M.O.P.No.13 of 2024 on the file of the Subordinate Court, Rasipuram.

For Petitioner : Mr.P.Mathivanan

For Respondent : Mr.J.Jayan



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ORDER

The petitioner, estranged wife of the respondent/husband filed a petition for restitution of conjugal rights in H.M.O.P.No.13 of 2024 before the Sub Court, Rasipuram. The respondent/husband filed H.M.O.P.No.203 of 2023 before the Sub Court, Attur seeking divorce on the ground of cruelty. The petitioner filed this petition seeking H.M.O.P.No.203 of 2023 on the file of the Sub Court, Attur, to be withdrawn and transferred to the file of the Sub Court, Rasipuram and to be tried along with H.M.O.P.No.13 of 2024.

2.The contention of the learned counsel for the petitioner is that the marriage between the petitioner and the respondent was held at Arulmighu Kailasanathar Temple, Rasipuram, Namakkal District on 30.10.2022 and it is an arranged marriage. The respondent is employed in a Private Company at Bangalore. The entire marriage expense was borne by the petitioner's parents and they also gifted her 20 sovereigns of gold jewels and household articles. After the marriage, the respondent and his family members



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demanded dowry of Rs.15 lakhs for purchase of a house for the respondent.

Further, during Pongal festival there was further demand of 2 sovereigns of gold chain and cash. Thereafter, the demand increased for purchase of a car. The respondent's family members were persistent on their demand and in the process, the petitioner was also humiliated, subjected to both mental and physical cruelty, due to the harassment she had miscarriage. The petitioner was sent to her parents house, the respondent and his family members made it clear that unless the demands of dowry are met, she would not be taken back to the matrimonial home. The petitioner lodged a complaint with All Women Police Station, Rasipuram. The petitioner is presently residing with her parents at Muthukallipatti Village, Rasipuram. Since the respondent failed to take her back to the matrimonial home and all her steps to contact him ended in vain, the petitioner filed a petition for restitution of conjugal rights in H.M.O.P.No.13 of 2024 before the Sub Court, Rasipuram. On the other hand, the respondent filed a petition for divorce in H.M.O.P.No.203 of 2023 before the Sub Court, Attur. He would submit that it is 50 kms from Rasipuram to Attur and the petitioner is finding it difficult to travel to Attur to attend the case, she also incurring



heavy expenditure and she is to mental and physical strain. He further submitted that both the petitioner and the respondent are common in H.M.O.P.No.203 of 2023 and H.M.O.P.No.13 of 2024, the crux of the case are similar and the documents would be common except for the different prayer in both petitions. Hence, to have a holistic view of both the cases and to avoid conflicting decisions, transfer of the case would be proper.

3.The learned counsel for the respondent opposed the petition. The respondent admits with regard to the marriage held between the petitioner and the respondent but with regard to the allegation of demand of dowry, he denies the same. He would submit that the petitioner was insisting the respondent to leave his parents, come out from the joint family and to set up a separate nuclear family. Initially, the respondent was not agreeable to the same but the petitioner started creating trouble, picking up fight and the house was in mayhem. Hence, the respondent yielded to the petitioner's demand and set up a separate matrimonial home. But thereafter to, the petitioner not changed her attitude, demanded money from the respondent for her lavish expenses and she insisted the respondent to give Rs.20,000/-



per month for her personal expenses. Not stopping with that, she also demanded for partition of the family property. The respondent's parents brought him with great difficulty, providing all comfort in his life with good education and character. The petitioner's only desire is that the respondent should cut off all his contacts with his parents, brother and other family members. The respondent was not agreeable to the same. Thereafter, the petitioner started creating story that the respondent is having illicit relationship with his brother's wife and was also spreading tantrums. The petitioner voluntarily deserted the matrimonial home and thereafter, gave a false complaint against the respondent before the DIG of Police, Salem, enquiry conducted in Current Paper No.116/2023 dated 15.07.2023 and All Women Police Station advised both the parties to approach the appropriate Court for remedy.

4.The learned counsel for the respondent further submitted that the petitioner along with her family members trespassed into the respondent's house, started creating problem and attempted to assault him, for which the respondent lodged a complaint in Attur Police Station in C.S.R.No.395 of



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2023 dated 13.08.2023. Unable to bear any further, the respondent filed a petition seeking divorce in H.M.O.P.No.203 of 2023 before the Sub Court, Attur on the ground of cruelty. On coming to know about filing of the case, as a counter blast the petitioner filed a petition for restitution of conjugal rights in H.M.O.P.No.13 of 2024 before the Sub Court, Rasipuram. On a mere reading of the petition copy, it could be seen that wild allegations have been made as though there was demand of dowry and she was subjected to cruelty. The entire narration depicts cruelty but the prayer sought for is restitution of conjugal rights and she claims that this petition is wantonly filed by her just to cause harassment to the respondent and counter to H.M.O.P.No.203 of 2023.

5.Considering the submissions made and on perusal of the materials, it is seen that H.M.O.Ps are pending against the petitioner and the respondent in H.M.O.P.No.203 of 2023 and H.M.O.P.No.13 of 2024. The petitioner herein is a lady residing at Muthukallipatti at Rasipuram which is not denied by the respondent. The petitioner has no income of her own and she has to necessarily travel around 50 kms to attend the hearing before the



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Sub Court, Attur. The parties are one and the same and the issues are similar. In view of the same, it would be proper that both the cases which arise out of matrimonial dispute to be tried by the same Judge to avoid complexity and also conflicting decisions. Hence, this Court is inclined to withdraw and transfer H.M.O.P.No.203 of 2023 from the file of the Sub Court, Attur to the file of the Sub Court, Rasipuram to be tried along with H.M.O.P.No.13 of 2024 which is pending in Sub Court, Rasipuram.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

14.06.2024

cse

To

1. The Subordinate Judge,
Attur.
2. The Subordinate Judge,
Rasipuram.



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M.NIRMAL KUMAR, J.

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