



Tr.CMP.No.506 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Tr.CMP.No.506 of 2024
and C.M.P.No.10543 of 2024

Catherine Bruna

... Petitioner

Vs.

J.Jenifer Arun Raj

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code to withdraw the case in O.P.No.625 of 2023 from the VI Additional Family Court at Chennai and transfer the same to the file of the Family Court at Puducherry.

For Petitioner : Ms.S.Sangeetha
For Respondent : Mr.N.R.P.Ayyanar

ORDER

The petitioner/respondent in O.P.No.625 of 2023 filed this petition seeking transfer of O.P.No.625 of 2023 from the file of the VI Additional Family Court at Chennai to the file of the Family Court at Puducherry.

2.The contention of the learned counsel for the petitioner is that the



marriage between the petitioner and the respondent was solemnized on 10.05.2019 at Sacred Heart Basilica at Puducherry and it was an arranged marriage. Out of their wedlock, a boy baby was born to them on 06.04.2020. After the marriage, the petitioner was residing with the respondent and his parents in K.K.Nagar, Chennai. Few months after the marriage, during Covid-19 lock down apart from regular restrictions, the respondent and his parents imposed further restrictions and kept the petitioner in isolation in most of the time. The petitioner was brought up by her mother as a single mother with great difficulty, her mother is employed as a Lecturer in a College and the petitioner was not allowed to have free communication even with her mother. It is further submitted that right from the date of marriage, there was misunderstanding and incompatibility between the petitioner and the respondent. The respondent was never willing to make any adjustment, he was adamant and hence, misunderstanding between them started brewing. Later, the respondent started to abuse the petitioner mentally and finally, on 28.06.2022 she was physically assaulted and chased out of the matrimonial house. Unable to bear any further, she left the matrimonial home and she came to her mother's place. Since then, the petitioner is living with her mother. The petitioner's



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mother being a single lady and her income was not sufficient for the maintenance of the petitioner and the child, hence she filed a maintenance case in M.C.No.39 of 2023 before the District Court, Puducherry. The petition filed for restitution of conjugal rights by the respondent before the VI Additional Family Court, Chennai is nothing but a harassment. Earlier, there was several rounds of reconciliation talks between the petitioner and the respondent. Even the Pastor who solemnized the marriage between them intervened, but could not find a solution since the respondent is adamant in nature and expected the petitioner to budge to all his commands. The parents of the respondent also fueling the dispute. The petitioner being a young mother having a toddler of two years, she has to take care of the baby. Further, the petitioner is now taken care of by her mother and she cannot undertake the travel of 320 kms to and fro from Puducherry to Chennai to attend the hearing, hence sought for transfer. In any event, the respondent is appearing in M.C.No.39 of 2023 before the Family Court, Puducherry. In view of the same, the respondent would not face any difficulty and hence, he may not have any objection for transfer of the case from Puducherry to Chennai.



3.The learned counsel for the respondent submitted that the petitioner's family is known to them for a long time and it was an arranged marriage. The petitioner's mother only insisted for the marriage. Initially, the respondent had an apprehension that the petitioner is of young age and whether she has become worldly wise to accept the matrimonial life. On the persistent compulsion of the petitioner's mother, marriage was accepted. Prior to marriage, the conversation between the petitioner and the respondent was cordial and after the marriage, they were living happily. The respondent is a technical person who is employed near Chennai and no similar opportunity is available for the respondent in Puducherry. The petitioner was adamant, that to, she want to move away and have a nucleus family which the respondent initially agreed, thereafter the petitioner insisted that since her mother is living separately, she wanted to shift the residence to Puducherry which is not possible due to the nature of the respondent's work. Though it was explained to her on several occasion, the petitioner was adamant and not willing to accept the respondent's explanation. Even the Pastor of the Church attempted to intervene and resolve the issue but the adamancy shown by the petitioner lead to such a situation that the petitioner is staying with her mother. The respondent on



several occasion went to Puducherry to meet his son which was objected by the petitioner and the respondent was not allowed to have bondage with his young son. Further, as a counter blast to the petition filed by the respondent for restitution of conjugal rights, maintenance case was filed by the petitioner to justify the transfer of case from VI Additional Family Court, Chennai to the Family Court at Puducherry. The respondent is even now willing to take back his wife and son with him and have a separate family in Chennai and he is willing to refer the matter to mediation. In the meanwhile, his only request is that the respondent may be permitted to meet his son and spend some time with him, so that he can have the touch and feel of the son and likewise, the son can have the love and affection of the father. The respondent's contention is that due to the young age, immaturity and ignorance, the petitioner is showing defiance in joining the respondent and matrimonial home.

4.This Court called upon the both the petitioner and the respondent, had interaction with them and the issue appears to be the petitioner getting offended due to the respondent's use of harsh words. Further, the petitioner fears for her safety if compelled to live with the respondent in Chennai.



Now the baby boy is four years old , who is the most sufferer being denied the love and affection of both the parents. The petitioner had no serious objection for the respondent to visit Puducherry, have custody of the minor son for a day on Sunday between 10.00 and 4.00 p.m. and her only apprehension is that the minor boy should not be forced and their bondage should be volunteer. Though several places and options were given, the petitioner was particular that the respondent and the minor son can meet at St.Andrew Church, Rediarpalayam, Puducherry. When the Parish Office of the Church was enquired, they informed that they have to look into various activities of the Church, especially in Sundays, there will be special mass and regular masses. Added to it, there will be other ceremonies and hence, it would not be convenient for the Parish Officer to take the responsibility. After informing both the counsel about the difficulty of the Parish Officer, it was decided that the respondent can visit his son in All Women Police Station, Reddiarpalayam, wherein the Women Police Personnel would monitor and ensure that the respondent is with the son from 10.00 a.m. to 4.00 p.m. without any force or compulsion. It is made clear that their meet should not be restricted in the Police Station only. This arrangement shall continue till the disposal of O.P.No.625 of 2023.



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5. In view of the same, this Court is inclined to withdraw and transfer O.P.No.625 of 2023 from the file of the VI Additional Family Court, Chennai to the file of the Family Court, Puducherry.

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

08.07.2024

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To

1. The VI Additional Family Court,
Chennai.
2. The Family Court,
Puducherry.

M.NIRMAL KUMAR, J.

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