



Tr.CMP.No.866 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.CMP.No.866 of 2023 & CrI.O.P.No.17366 of 2023

and

C.M.P.Nos.20586 & 11247 of 2023

Tr.C.M.P.No.866 of 2023 :

Vimala Joys

.. Petitioner

Vs.

Stephen Raj

.. Respondent

Prayer : The Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the proceeding in I.D.O.P.No.5798 of 2022 on the file of the VI Additional Family Court at Chennai and transfer the same to the file of the Family Court at Chengalpattu to be tried along with M.C.No.18 of 2023.

For Petitioner : Ms.A.Sumathy

For Respondent : Mr.T.Anandasekar



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Crl.O.P.No.17366 of 2023 :

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Stephen Raj

.. Petitioner

Vs.

Vimala Joys @ Vimala

.. Respondent

Prayer : The Criminal Original Petition is filed under Section 407 of the Code of Criminal Procedure, to withdraw the case in M.C.No.18 of 2023 on the file of the Family Court at Chengalpattu and transfer the same to the file of the VI Additional Family Court at Chennai.

For Petitioner : Mr.T.Anandasekar

For Respondent : M/s.A.Sumathy

COMMON ORDER

By an order passed by Hon'ble Mr.Justice N.Anand Venkatesh in Crl.O.P.No.17366 of 2023, dated 26.09.2023, the Criminal Original Petition in Crl.O.P.No.17366 of 2023 was clubbed along with Tr.C.M.P.No.866 of 2023 and both the matters are listed before me today.

2. The Criminal Original Petition has been filed seeking transfer of proceeding in M.C.No.18 of 2023, initiated by the wife, from the file of the Family Court at Chengalpattu to the file of the learned VI Additional



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Family Judge at Chennai.

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3. The Transfer Civil Miscellaneous Petition has been filed by the wife seeking transfer of proceeding in I.D.O.P.No.5798 of 2022 from the file of the learned VI Additional Family Judge at Chennai to the file of the Family Court at Chengalpattu where the maintenance proceedings, initiated by the wife, are pending.

4. For the sake of convenience, the wife will be referred to as the petitioner and the husband will be referred to as the respondent.

5. The petitioner and the respondent married on 01.06.2022 at Puthiya Arokiya Annai Aalayam at Chennai – 600 039 according to Christian rites and customs.

6. The petitioner states that she was driven out of her matrimonial home by the respondent and therefore, she has taken asylum in the house of her brother. As the relationship between the husband and wife is admitted, pleading that it is the duty of the husband to maintain the wife, she initiated the proceeding in M.C.No.18 of 2023 before the Family Court at



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Chengalpattu. This is because the petitioner is residing within the jurisdiction of the Family Court at Chengalpattu i.e., Periyannatham within Chengalpattu Town.

7. In the meantime, the respondent has initiated the proceeding for divorce in I.D.O.P.No.5798 of 2022 alleging cruelty by the wife invoking the provision of Section 10(1)(x) of the Indian Divorce Act, 1869.

8. The petitioner pleads that she has lost her parents at a very young age and does not have anyone to support her other than her brother.

9. Turning to the Criminal Original Petition filed by the respondent, the respondent/husband pleads that he is suffering from low vision of about 90 percent disability and therefore, he would state that he is not in a position to travel from Chennai to Chengalpattu in order to attend the hearings before the Family Court at Chengalpattu in connection with M.C.No.18 of 2023.

10. Heard Ms.A.Sumathy, appearing on behalf of the petitioner and



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Mr.T.Anandasekar, appearing on behalf of the respondent.

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11. On perusal of the typed set of papers which had been filed in the Criminal Original Petition, I am able to see that the District Differently Abled Welfare Officer has certified, after examination of the respondent/husband at the premises of SRTC, K.K.Nagar, Chennai, that the respondent/husband is suffering from 90 percent visual disability. The certificate has been enclosed in the typed set of papers at Page No.30.

12. If I were to withdraw the proceedings from the file of the VI Additional Family Court at Chennai and transfer the same to the file of the Family Court at Chengalpattu, I would be causing hardship to the husband as he would require some support to travel from Chennai to Chengalpattu to attend the Court hearings.

13. On the contrary, If I were to transfer the proceedings from Chengalpattu to Chennai, then the only difficulty that the wife will face is the financial difficulty as she claims to be hale and hearty.



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14. Taking into consideration the overall circumstances, I am of the view that if the husband is called upon to pay a sum of Rs.1,500/- per hearing to the wife, then she would be in a position to travel from Chengalpattu to Chennai without any difficulty.

15. Taking into consideration the disability that the respondent/husband is suffering from, I am inclined to allow the petition in CrI.O.P.No.17366 of 2023. Hence, the proceeding in M.C.No.18 of 2023 pending on the file of the Family Court at Chengalpattu is withdrawn and it shall stand transferred to the file of the learned VI Additional Family Judge at Chennai. To avoid any conflict of judgments, M.C.No.18 of 2023 will be heard and disposed of along with I.D.O.P.No.5798 of 2022 pending on the file of the learned VI Additional Family Judge at Chennai.

16. I am also alive to the fact that the maintenance proceeding has initiated by the wife only after she had been served in the divorce proceedings. Therefore, the learned VI Additional Family Judge at Chennai shall ensure that for every hearing, the husband shall tender a sum of



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Rs.1,500/- to the wife and only thereafter, he shall proceed with the case.

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17. Accordingly, the Criminal Original Petition in CrI.O.P.No.17366 of 2023 stands allowed and the Transfer Civil Miscellaneous Petition in Tr.C.M.P.No.866 of 2023 stands dismissed. Consequently, connected Civil Miscellaneous Petitions are closed.

14.06.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

- 1.The learned VI Additional Family Judge,
Chennai
- 2.The Family Court,
Chengalpattu

Tr.CMP.No.866 of 2023 & CrI.O.P.No.17366 of 2023
and
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