



CrI.O.P.(MD)No.2110 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.02.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P.(MD)No.2110 of 2024

and

CrI.M.P.(MD) No.1603 of 2024

Dharmaraj

... Petitioner

Vs.

Shobika Devi

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to withdraw the case in M.C.No.25 of 2023 on the file of the learned Judicial Magistrate, Thirumangalam and transfer the same to the file of any of the learned Judicial Magistrate, Trichy.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor



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ORDER

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The learned Counsel for the Petitioner submitted that the Petitioner had filed this petition seeking withdrawal of pending maintenance case in M.C.No.25 of 2023 on the file of the learned Judicial Magistrate, Thirumangalam, Madurai District.

2.The learned Counsel for the Petitioner submitted that the Petitioner is a resident of Edamalaipatti Pudur, Arunachala Nagar, Trichy. He is serving as a Train Ticket Examiner in the Southern Railway. The Petitioner is unable to appear before the Court of the learned Judicial Magistrate, Thirumangalam, for every hearing. Therefore, the Petitioner seeks withdrawal of the case from the file of the learned Judicial Magistrate, Thirumangalam to any other Court. The submission of the learned Counsel for the Petitioner cannot be entertained in the light of the reported rulings of the Hon'ble Supreme Court particularly regarding matrimonial dispute, whether it is the custody of the child, whether it is a domestic violence original petition or whether it is a divorce petition. In all these cases, when the woman is the Petitioner, the Court shall be nearer to the place of the residence of the wife, whether the wife is Petitioner or Respondent. Here, the Petitioner in the maintenance case is the wife and the Petitioner in Crl.O.P.(MD)No.2110 of 2024 is the husband, who is the Respondent in the



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maintenance case. The Petitioner seeks withdrawal of the maintenance case from the file of the learned Judicial Magistrate, Thirumangalam to any other Court nearer to his place of work.

3.During the course of the submission, the learned Counsel for the Petitioner submitted that even though the Petitioner is the resident of Trichy, he is employed as a Train Ticket Examiner in Chennai Division. That cannot be a ground to seek withdrawal of the petition from the Court of the learned Judicial Magistrate, Thirumangalam, where, his wife originally resides as per the averments in the maintenance case in M.C.No. 25 of 2023. It is to be noted that the Train Ticket Examiner can travel up to Madurai. From Madurai to Thirumangalam, it is hardly one hour drive. Therefore, it does not cause any harassment to the Petitioner. Not only that, in Maintenance Cases the Respondent's husband is not expected to be present in Court on every hearing. He can engage Counsel by filing a vakalat, so that his appearance can be dispensed with by the learned Judicial Magistrate, Thirumangalam. Only if his presence is required for cross examination of P.W.1 or for his own deposition as a witness, his presence is required. The Petitioner can file appropriate petition before the learned Judicial Magistrate, Thirumangalam to dispense with the personal appearance for every hearing and only if his presence is required, he can



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inform his Counsel to appear on a day of his choice. For this inconvenience of the Petitioner, if this petition is withdrawn, it will go against the ruling of the Hon'ble Supreme Court, wherein, the Hon'ble Supreme Court had reiterated that, as far as possible, matrimonial dispute shall be conducted in the place where the woman resides ordinarily.

4.The apprehension expressed by the Petitioner is that his wife had preferred DVOP also cannot be accepted. The presiding Judges of the trial Courts are expected to protect the witnesses as well as the accused before them. Therefore, if at all there is a threat to the Petitioner or any injury caused to him by anyone of the relatives to the Petitioner, the Petitioner can represent his apprehension to the trial Judge, so that the parties will be warned accordingly. That cannot be a ground to seek withdrawal of the petition on mere apprehension.

5.In the light of the above discussion, this petition has no merits. Hence, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

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Internet:Yes/No

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SATHI KUMAR SUKUMARA KURUP, J.,

jbr

To

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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