



Tr.C.M.P(MD).No.157 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Tr.C.M.P(MD).No.157 of 2024

and

CMP(MD)No.3285 of 2024

Priyavarshini

... Petitioner

Vs.

Sivashanmugavignesh

... Respondent

PRAYER: Transfer Civil Miscellaneous Petitions filed under Section 24 of the Civil Procedure Code, to withdraw the case in H.M.O.P.No.24 of 2024 from the file of the Family Court, Sivagangai and transfer the same to the file of Family Court, Dindigul.

For Petitioner
For Respondent

: Mr.K.Navaneetharaja
: Mr.M.Mari Chelliah Prabhu

ORDER

This petition has been filed to withdraw the case in H.M.O.P.No.24 of 2024 from the file of the Family Court, Sivagangai and transfer the same to the file of Family Court, Dindigul.



Tr.C.M.P(MD).No.157 of 2024

WEB COPY

2. It is stated by the petitioner that the marriage was solemnized between the petitioner and the respondent on 06.06.2019 by the elders and the family members as per the Hindu Rites and Customs. As demanded by the respondent's family members, 117 sovereigns of gold and Rs.10 lakhs as fixed deposit were given as dowry. From the date of the marriage, the respondent's mother used to insult the petitioner by stating that she was not good look in nature and colour. However, the petitioner tolerated the same. While so, the respondent started quarrel with the petitioner and scolded her due to ill-advice given by the in-laws. However, the respondent never changed his intention and he demanded more dowries and harassed the petitioner. In such circumstances, the respondent filed a petition in H.M.O.P.No.345 of 2021 on the file of the Family Court, Sivagangai, seeking divorce. However, at the advice of the elders, he withdrawn the petition. It is further stated that out of their wedlock, they blessed with a female baby on 03.01.2022. Thereafter also, the petitioner's in laws again started harassing her and demanded more dowries. Due to the same, the respondent also started quarrelling with her and scolded me on the ill-advice given by the in-laws and let the petitioner out of the matrimonial home keeping her daughter with the



Tr.C.M.P(MD).No.157 of 2024

respondent's family. Hence, on 31.01.2024, the petitioner lodged a complaint before the All Women Police Station, Batlagundu. Now, the petitioner is staying in her parental home at Nilakottai. In such circumstances, the respondent has filed the petition in H.M.O.P.No.24 of 2024 on the file of the Family Court, Sivagangai, seeking the relief of restitution of conjugal rights in order to escape the criminal case.

3. The learned counsel for the petitioner would submit that the petitioner is staying with her aged parents at Nilakottai Taluk, Dindigul. Hence, it is not possible for the petitioner to travel from Nilakkottai to Sivagangai for every hearing and her parents also are not in a position to lift more burden. In order to attend the hearing at Sivagangai, she has to travel more than 90 kms. Hence, the petitioner filed the present petition for transfer of the case from the Family Court, Sivagangai to the Family Court, Dindigul. Hence, he prays for allowing this petition. In support of his contention, the learned counsel relied upon the Judgment of the Hon'ble Supreme Court in **Sumita Singh Vs. Kumar Sanjal and another** reported in **AIR 2002 SC 396**.



Tr.C.M.P(MD).No.157 of 2024

4. The learned counsel for the respondent would submit that the respondent is working as Associate in State Bank of India, Vembathur Branch, Sivagangai District. The petitioner without any reason left the matrimonial home. The respondent took several measures to bring back the petitioner, however, all the efforts were ended in vain. Hence, the petitioner filed the petition H.M.O.P.No.24 of 2024 before the Family Court, Sivagangai, for restitution of conjugal rights. He would further submit that the petitioner has given complaint without any valid reason. However, based on the complaint, FIR has been registered in Crime No.2 of 2024 for the offences under Sections 498(A), 294(b), 323, and 506(i) IPC r/w Section 4 of Women Harassment Act and Section 4 of Dowry Prohibition Act by the All Women Police Station, Nilakkottai, against the respondent's family and the same is pending. He would further submit that now the respondent is working at State Bank of India, Vembathur Branch, Sivagangai District. If the transfer petition is allowed, it is very to difficult for the respondent to attend the every hearing. Hence, he seeks for dismissal of this petition.

5.Heard both sides.



Tr.C.M.P(MD).No.157 of 2024

6. Admittedly, the respondent is working as Associate in State Bank of India, Vembathur Branch, Sivagangai District and the petitioner is an unemployed. The petitioner is residing at Nilakkottai Taluk. The said fact is not disputed by the respondent. The petitioner's counsel relied on the Judgment in the case of Sumitha Singh, wherein, it has been observed as follows:

“It is the husband's suit against the wife. It is the wife's convenience that, therefore, must be looked at the circumstances indicated above are sufficient to make the transfer petition absolute.”

7. Though the petitioner cited the above judgment for convenience of wife, in this case, the petitioner is an unemployed. However, the respondent is working at Sivagangai District. Therefore, in the interest of justice, this Court thought it feels to transfer the case to the Family Court, Madurai, which will be useful to both the petitioner and the respondent to attend the each and every hearing.

8. Accordingly, the Transfer Miscellaneous Petition is disposed of and the petition in H.M.O.P.No.24 of 2024 on the file of the Family Court, Sivagangai is directed to be transferred to the Family Court,



Tr.C.M.P(MD).No.157 of 2024

Madurai from the Family Court, Sivagangai. The Judge, Family Court, Sivagangai is directed to send to the entire case bundle to the Family Court, Madurai. No costs. Consequently, connected miscellaneous petition is closed.

04.07.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
skn

To

- 1.The Judge, Family Court, Sivagangai.
- 2.The Judge, Family Court, Dindigul.
- 3.The Judge, Family Court, Madurai.



WEB COPY



Tr.C.M.P(MD).No.157 of 2024

A.A.NAKKIRAN, J.

skn

Tr.C.M.P(MD).No.157 of 2024
and
CMP(MD)No.3285 of 2024

04.07.2024