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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl. O.P(MD) No. 719 of 2024

1.Sudha

2.Minor.Sushma

3.Minor.Thanishka ... Petitioners/2nd Accused

(The Respondents 2 & 3 are represented by their mother/natural guardian, the first respondent)

Vs

Sundharesan

... Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to withdraw the case in M.C.No.173 of 2022 on the file of the Family Court, Madurai, Madurai District, and to transfer to the Family Court, Theni, Theni District.

For petitioners :Mr.B.Jeyakumar

ORDER

This criminal original petition has been filed to withdraw the case in M.C.No.173 of 2022 on the file of the Family Court, Madurai, Madurai District, and to transfer the same to the Family Court, Theni, Theni District.



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2.The first petitioner herein is the wife and the respondent is the husband. The marriage between the first petitioner and the respondent was solemnized on 19.05.2019 as per Hindu Rites and Customs. After the marriage, both were living together in the matrimonial home at Madurai. Two female children were born in the wedlock. Due to some difference of opinion, the petitioner gave a complaint before the All Women Police Station, Samayanallur, Madurai. Thereby, the petitioners were brutally attacked and driven out of the matrimonial home by the respondent. Hence, the first petitioner filed H.M.O.P.No.317 of 2020 before the Family Court, Madurai, seeking constitution of conjugal rights and also filed M.C.No.173 of 2022 on the file of the Family Court, Madurai, Madurai District, seeking maintenance.

3.According to the first petitioner, she is residing at Theni with her parents along with her children/petitioners 2 & 3. She is not having any independent income and she is depending on her parents for her day-to-day expenses, including the travelling expenses. The distance between Theni and Madurai is more than 160 kms. The petitioner, being a lady, finds it very difficult to attend the hearing in the Court at Madurai without help of others. She has also stated that it will not be difficult for



the respondent/husband to attend the hearing at Theni. Therefore, she prayed to transfer M.C.No.173 of 2022 to the file of the Family Court, Theni, Theni District, or any other competent Court at Theni.

4. Heard the learned counsel appearing for the petitioners and also perused the materials available on records.

5. In the case of ***N.C.V.Aishwarya Vs. A.S.Saravana Karthik Sha*** reported in ***2022 Live Law (SC) 627***, the Hon'ble Supreme Court has dealt with the position generally, that it is the wife's convenience, which must be looked into while considering the transfer petition under Section 24 of the Code of Civil Procedure and the relevant passage is extracted hereunder :

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent



thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.", the bench observed."

6. It is also well settled proposition of law that whenever a transfer petition is filed in matrimonial disputes, the convenience of the wife should be predominantly looked into, and the wife's convenience shall be given preference.

7. Considering the overall facts and circumstances of the case and also taking into account of the inconvenience expressed by the first petitioner in attending every court hearing leaving her minor children by travelling 4 hours journey to reach the Family Court, Madurai, Madurai District, situated 160 km away from her domicile, incurring huge expense, this court inclines to allow the petition.



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8.Hence, the learned District Judge, Family Court, Madurai, Madurai District, is hereby directed to transfer the entire records pertaining to the case in M.C.No.173 of 2022, to the file of the learned District Judge, Family Court, Theni, Theni District, within a period of **four** weeks from the date of receipt of a copy of this order, and on receipt of such records, the learned District Judge, Family Court, Theni, Theni District, is directed to take the case on file and dispose of the same as expeditiously as possible in accordance with law.

9. Accordingly, the Criminal Original Petition stands allowed.

05.12.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
dss

To

1. The Family Court, Madurai,
Madurai District.
2. The Family Court, Theni,
Theni District.



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