

Mahima M.B vs Shiju,

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Court : Kerala

Decided On : Mar-18-2025

Judge : Honourable Mr.Justice Basant Balaji

Appeal No. : Tr.P(C)/170/2025

Appellant : Mahima M.B

Respondent : SHIJU,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI
TUESDAY, THE 18TH DAY OF MARCH 2025 / 27TH PHALGUNA, 1946
TR.P(C) NO. 170 OF 2025 TO TRANSFER OPHMA NO.787 OF 2024
OF FAMILY COURT, PUNALUR PETITIONER/S: MAHIMA M.B AGED
24 YEARS D/O.MADHU K, RESIDING AT MAHIMA BHAVAN,
AVANAVANCHERY P.O, ATTINGAL VILLAGE,
THIRUVANANTHAPURAM, PIN - 695103 BY ADVS. S.S.ARAVIND
S.NITHIN (ANCHAL) RESPONDENT/S: SHIJU, AGED 30 YEARS
S/O.SREENIVASAN CHETTIYAR, RESIDING AT
SREEMANGALAMHOUSE, NETHAJI ROAD,PUNALUR VILLAGE&
TALUK , KOLLAM, PIN - 691305

BY ADVS. BIJU C ABRAHAM THOMAS C.ABRAHAM(K/517/2022)
BASIL MATHEW(K/000588/2020) THIS TRANSFER PETITION (CIVIL)
HAVING COME UP FOR ADMISSION ON 18.03.2025, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

(Dated this the 18th day of March, 2025) The petitioner is the wife, and the respondent herein is the husband. The petitioner seeks the transfer of O.P.(HMA) No.787 of 2024 on the files of Family Court, Punalur, which is filed by the respondent seeking a decree of divorce, to the Family Court, Attingal.

2. The marriage between the petitioner and the respondent was solemnized on 23.8.2021 as per the rituals and practices followed by the Muslim Community.

3. It is submitted that the petitioner had

preferred O.P.(HMA) No.1367 of 2024 before the Family Court, Attingal for divorce. Thereafter, Tr.P.C.No.43 of 2025 was filed by the respondent before this court, for transfer of the same to the Family Court, Punalur and is pending consideration.

4. The petitioner is pursuing her studies and she

has no income. She is residing with her parents and there is nobody to accompany her as her parents are suffering from age related ailments. Moreover, the O.P. filed by the petitioner is pending before the Family Court, Attingal. Hence, she seeks a transfer of O.P.No.787 of 2024.

5. Though appeared, no counter is seen filed by the respondent.

6. The law in respect of transfer of proceedings,

particularly in matrimonial disputes, is no longer res- integra, in view of the categorical declaration of law by the Hon'ble Supreme Court in Sumitha Singh v. Kumar Sanjay and another [(2001)10 SCC 41], Mona

Aresh Goel v. Aresh Satya Goel [(2000) 9 SCC 255], Vaishali Shridhar Jagtap v. Shridhar Vishwanath Jagtap [AIR 2016 SC 3584] and Santhini v. Vijaya Venkatesh [2017

(4) KLT 415 (SC)]; wherein it is held that, it is the

convenience of the woman and children that have to be looked into while ordering the transfer of a case from one Court to another. The law is quite categoric, and the wife's convenience has to be looked into while deciding a petition for transfer, and in such cases, a transfer has been effected. Thus, in the light of the uncontroverted averments in the memorandum of transfer petition as well as the law laid down by the Hon'ble Supreme Court in the afore-cited decisions and that the O.P. filed by the petitioner is pending before the Family Court, Attingal, I am inclined to allow this transfer petition. In the result, this Tr.P.C. is allowed, and O.P. No.787 of 2024 is withdrawn from the Family Court, Punalur, and transferred it to the Family Court, Attingal. The Family Court, Punalur, shall transfer the records to the Family Court,

Attingal, immediately and the Family Court, Attingal, shall upon receipt of the records, dispose of the case in accordance with law. The parties are directed to appear before the Family Court, Attingal, on 30.04.2025. Sd/- BASANT BALAJI, JUDGE d// APPENDIX OF TR.P(C) 170/2025 PETITIONER ANNEXURES Annexure- 1 TRUE COPY OF OP (HMA) NO.787/2024 FILED BY THE RESPONDENT BEFORE FAMILY COURT, PUNALUR

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