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Vishnu U. vs Anjitha S.

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Court : Kerala Orders

Decided On : Sep-29-2022

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Tr.P(C)/366/2018

Appellant : Vishnu U.

Respondent : Anjitha S.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS THURSDAY, THE 29TH DAY OF SEPTEMBER 2022 / 7TH ASWINA, 1944 TR.P(C) NO. 366 OF 2018 IN OP 60/2018 OF FAMILY COURT, THIRUVANANTHAPURAM TO FAMILY COURT, KOLLAM PETITIONERS: 1 MR.VISHNU U. S/O.UDAYAN, AGED 25 YEARS, RESIDING AT ARCHANA NILAYAM,KUTHIYATHODE, CHERTHALA P.O.,ALAPPUZHA. 2 MR.UDAYAN.U S/O.KUMARAN, AGED 51 YEARS, RESIDING AT ARCHANA NILAYAM,KUTHIYATHODE, CHERTHALA P.O.,ALAPPUZHA. 3 SMT.PRASANNA.U. W/O.UDAYAN,AGED 46 YEARS,RESIDING AT ARCHANA NILAYAM,KUTHIYATHODE CHERTHALA P.O.,ALAPPUZHA. BY ADV

SRI.S.SREEKUMAR (KOLLAM) RESPONDENT: ANJITHA S. D/O.K.ANIL,AGED 20 YEARS, RESIDING AT UNDAMUNDUMPIL VEEDU,MANNACAUD P.O.,THIRUVANANTHAPURAM 695009. THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.09.2022, ALONG WITH Tr.P(C).369/2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS THURSDAY, THE 29TH DAY OF SEPTEMBER 2022 / 7TH ASWINA, 1944 TR.P(C) NO. 369 OF 2018 IN OP 72/2018 OF FAMILY COURT,TRIVANDRUM TO FAMILY COURT KOLLAM PETITIONER/RESPONDENT: MR.VISHNU.U AGED 25 YEARS S/O. UDAYAN, AGED 25 YEARS, RESIDING AT ARCHANA NILAYAM, KUTHIYATHODE, CHERTHALA P.O., ALAPPUZHA. BY ADV SRI.S.SREEKUMAR (KOLLAM) RESPONDENT/PETITIONER: ANJITHA.S AGED 20 YEARS D/O. K.ANIL, AGED 20 YEARS, RESIDING AT UNDAMUNDUMPIL VEEDU, MANNACAUD P.O., THIRUVANANTHAPURAM - 695 009. THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.09.2022, ALONG WITH Tr.P(C).366/2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:3:- Dated this the 29th day of September,2022

COMMON ORDER

As the transfer petitions relate to the disputes that have arisen out of the marriage between Vishnu.U (husband) and Anjitha. S. (wife), they are being disposed of by this common order.

2. Tr.P.(C) No.366/2018 is filed by the husband and his parents against the wife to transfer

O.P.No.60/2018 from the Family Court, Thiruvananthapuram to the Family Court, Kollam. Tr.P. (C)No.369/2018 is filed by the husband against the wife to transfer

O.P.No.72/2018 from the Family Court, Thiruvananthapuram to the Family Court, Kollam. The parties and pleadings are, for the sake of convenience, referred to as per the status in Tr.P.(C)No.366/2018, which is treated as the leading case.

3. The common case of the petitioners in the transfer petitions is that, the respondent is the wife of -:4:-

the first petitioner. Their marital relationship is strained. The respondent has filed O.P.No.60/2018 (Annexure-A1) against the husband and his parents before the Family Court, Thiruvananthapuram, seeking a decree for recovery of money, gold ornaments and divorce. She has also filed O.P.No.72/2018 against the husband before the same court, for declaration and

mandatory injunction. The husband and his parents were contesting the proceedings before the Family Court, Thiruvananthapuram. However, they have been harassed by the relatives of the respondent. On the last posting, one person named Shankaran, the relative of the respondent, abused the husband in filthy language. The husband and his parents have fear to appear before the Family Court, Thiruvananthapuram, apprehending danger to their lives. Hence, the transfer petition.

4. Heard; Sri. S.Sreekumar (Kollam), the learned -:5:- counsel appearing for the petitioners.

5. The point is whether the transfer petitions are to be allowed?.

6. The principal ground urged for transfer of the proceedings is that the husband and his parents are apprehensive that life and limb would be in danger, if

they appear before the Family Court, Thiruvananthapuram, due to the threat made by the relatives of the wife. Even though the said allegation is made, there is nothing on record to substantiate the same. The husband or his parents have not lodged any complaint before the Presiding Officer of the said court or the Police.

7. It is well settled that a case cannot be

transferred on the mere asking of the parties. It is also fairly well settled that, the convenience of the woman has to be given due weightage and preference, while ordering the transfer of a case from one court to -:6:- another.

8. On going through the cause title of the transfer petitions, it is seen that the respondent is only

aged 24 years. Therefore, I am of the definite view that the convenience of wife has to be given due preference when compared to the grievance of the husband and his parents. Nonetheless, their grievance can be redressed by dispensing with the personal appearance of the husbands parents by directing that, the husband would be at liberty to file an appropriate complaint before the Presiding Officer of the Family Court, Thiruvananthapuram, in case there is any threat from the respondent or her relatives.

In the result, I pass the following order:

(i) The transfer petitions are dismissed.

(ii) The Family Court, Thiruvananthapuram, shall dispense with the personal appearance of the parents of the husband. -:7:-

(iii)If the husband has any grievance regarding any threat or intimidation from the respondent or her relatives, he would be at liberty to file an appropriate complaint before the Presiding Officer of the Family Court, Thiruvananthapuram, who shall take necessary action on the same.

Sd/- C.S.DIAS,JUDGE DST/29.09.22 //True copy/ P.A.To Judge -:8:- APPENDIX OF TR.P(C) NO. 366 OF 2018 PETITIONERS ANNEXURE ANNEXURE-A1 A TRUE COPY OF THE O.P.NO.60/18 OF 2018 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, THIRUVANANTHAPURAM RESPONDENTS EXHIBITS: NIL -:9:- APPENDIX OF TR.P(C) NO. 369 OF 2018 PETITIONERS ANNEXURE ANNEXURE-A1 A TRUE COPY OF THE O.P.NO.72/18 OF 2018 FILED BY THE RESPONDENT BEFORE THE FAMILY COURT, THIRUVANANTHAPURAM RESPONDENTS EXHIBITS: NIL

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