

Venkatesh Vs. Soumiya

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Court : Chennai

Decided On : Nov-20-2012

Judge : C.S. Karnan

Appeal No. : TR. CMP (MD) No. 132 of 2012 & M.P. No. (MD). 1 of 2012

Appellant : Venkatesh

Respondent : Soumiya

Advocate for Pet/Ap. : For the Appellant: M. Karunanithi, Advocate. For the Respondent: C. Mayilvahana Rajendran, Advocate.

Judgement :

(Prayer: Civil Miscellaneous Appeal filed under Section 24 of Code of Civil Procedure to withdraw the petition pending before Principal Subordinate Judge, Tiruppur in H.M.O.P.No.361 of 2011, to transfer the same on the file of the Principal Subordinate Judge, Thanjavur, for joint trial along with H.M.O.P.No.22 of 2012.)

1. The petitioner/husband has filed the above transfer petition to withdraw he petition in in H.M.O.P.No.361 of 2011, on the file of the Principal Subordinate Judge, Tiruppur and to transfer the same to the file of Principal Subordinate Judge, Thanjavur, for joint trial along with H.M.O.P.No.22 of 2012.

2. The learned counsel for the petitioner submits that he has filed in H.M.O.P.No.22 of 2012, on the file of Principal Subordinate Judge, Thanjavur, against the respondent/wife for restitution of conjugal rights. The learned counsel further submits that both the spouses had loved each other and married on 20.06.2011 at Nambiyur Village, in Erode District. Subsequently, the marriage was registered on 22.06.2011, vide marriage certificate No.23 of 2011. After marriage, both both had lived at matrimonial home. The marriage was an intercaste one. Under the circumstances, on 15.11.2011, his in-law's took his wife to her parent's place. Therefore, the petitioner had levelled a Criminal complaint before the Naducanvery Police Station and F.I.R also was registered. The learned counsel further submits that the petitioner/wife had been illegally detained by the parents. Hence, the petitioner had moved in H.C.P(MD).1068 of 2011, before the Madurai Bench of Madras High Court. The same was closed after producing his wife before this Court. The learned counsel further submits that at the time of producing his wife before this Court, the petitioner was not present. As such, the order passed by the Division Bench in Habeas Corpus Petition is a vitiated one. The learned counsel further submits that the petitioner wife called the petitioner on 06.11.2011, stating that she has been in detention, against her Will and her parents had forced her to marry one Vivek. Therefore, the petitioner had lodged a complaint before the Deputy Inspector of Police, Thanjavur, on 07.02.2011.

3. The learned counsel further submits that the respondent/wife had filed in H.M.O.P.No.261 of 2011, on the file of Principal Subordinate Judge, Tirupur, for dissolution of marriage. The learned counsel further submits that the said H.M.O.P had not been filed of her own accord but only on her parent's instigation, the the case was registered. The petitioner has filed in H.M.O.P.No.22 of 2012 for restitution of conjugal rights against his wife. His wife had also become pregnant. The learned counsel further submits that the petitioner and respondent are willing to lead their matrimonial life under one shelter. The learned counsel further submits that under the circumstances, the petitioner is unable to appear before the Principal Subordinate Judge, Tiruppur, due to fear of his wife's parents and their supporters. I the case is transferred from Tiruppur to Thanjavur, for joint trial, then both the spouses can meet each other and effect a reconciliation among them.

4. The learned counsel for the respondent/wife submits that the respondent wife has filed in H.M.O.P.No.361 of 2011, on the file of Principal Subordinate Judge, Tiruppur, for dissolution of marriage, which was solemnized on 20.06.2011, against her wish. The learned counsel further submits that the respondent herself appeared before this Court, as per direction given in H.C.P.(MD).No.1068 of 2011 and freely expressed that she is a major and living along with her parents and leading her life peacefully. Further, she expressed that neither her parents nor any one else had detained her in an illegal manner. Therefore, the Habeas Corpus Petition was dismissed. The learned counsel further submits that the respondent has filed the petition for dissolution of marriage and subsequently, the petitioner had filed the case for restitution of conjugal rights. Further, the respondent herself appeared before the Principal Subordinate Judge, Tiruppur and filed the petition. Therefore, the respondent has sought for relief against the petitioner on her own accord and not on the instigation of any others.

5. On considering the facts and circumstances of the case and arguments advanced by the learned counsels on either side and on perusing the affidavit filed by the petitioner, this Court does not find any valid ground to allow the above transfer petition. If the petitioner is being troubled by the opposite party, he is at liberty to lodge a complaint with the nearest police station. If such complaint is received by the concerned station house officer, the concerned officer shall take suitable action and also provide sufficient police protection to the petitioner, to enable him to attend his case at Tiruppur Principal Subordinate Judge in H.M.O.P.No.361 of 2011. The learned Subordinate Judge, Tiruppur, is directed to dispose the H.M.O.P.No.361 of 2011, on most urgent basis.

6. In the result, the above transfer petition is dismissed. Consequently, connected miscellaneous petition is closed.

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