REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S). 4894 of 2022
(Arising out of S.L.P.(C)No(s).16465 of 2021)

N.C.V. AISHWARYA …APPELLANT(S)

VERSUS

A.S. SARAVANA KARTHIK SHA …RESPONDENT(S)

O R D E R

1. Leave granted.

2. This appeal is directed against the Order dated 19.11.2020 in TR.C.M.P. No.473 of 2020 whereby the High Court of Judicature at Madras has rejected the petition filed by the appellant-wife seeking transfer of a petition, F.C.O.P. No.125 of 2020 filed by her respondent-husband before the Family Court, Vellore, to the Family Court at Chennai.

3. The marriage between the appellant and the respondent was arranged and solemnized on 05.03.2020 at Kanna Mahal, Anna Salai, Vellore, in accordance with Hindu rituals and customs. It is the case

of the respondent that the appellant started quarreling and fighting with the respondent for petty things and refused to consummate the marriage. The respondent filed the aforesaid F.C.O.P. No.125 of 2020 before the Family Court, Vellore, for annulment of their marriage.

4. The appellant is a resident of Chennai. She has also filed two cases. H.M.O.P. No.1741 of 2021 has been filed by her before the Family Court at Chennai against her husband for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955, and M.C. Sr. No.672 of 2021 before the Family Court at Chennai for maintenance under Section 125 of the Cr.P.C.

5. The appellant in her petition filed under Section 9 of the Hindu Marriage Act has contended amongst others that without any reasonable excuse, the respondent withdrew from her society and that the respondent is bound to live with the appellant and give her conjugal companionship.

6. The appellant filed a petition under Section 24 of the Code of Civil Procedure before the High Court of Judicature at Madras for transfer of F.C.O.P. No.125 of 2020 pending on the file of the Family Court, Vellore to the Family Court at Chennai. According to the appellant, her parents are old and that she is aged 21 years and not in a position to travel to Vellore through out the court proceedings without having any support. In addition, the appellant contends that

it would not be possible for her aged parents to accompany her to Vellore. She is totally dependent on her parents morally and financially. She is not employed and does not have any other source of income. Moreover, she does not have any accommodation for staying at Vellore. The respondent has opposed the said petition. As noticed above, the High Court has dismissed the transfer petition.

7. We have heard learned counsel for the parties.

8. It is not disputed that the appellant is the resident of Chennai and that the appellant's husband-respondent herein is the resident of Vellore and he is employed. The appellant who is 21 years old does not have any source of income of her own as she is not employed and is totally dependent on her parents for her livelihood. In order to attend the court proceedings of the case filed by her husband at Vellore she has to travel alone all the way from Chennai to Vellore as her parents are not in a position to accompany her on account of their old age. Secondly, the appellant has also filed a petition, H.M.O.P. No.1741 of 2021, for restitution of conjugal rights and another petition, M.C. Sr. No.672 of 2021, for her maintenance before the Family Court at Chennai.

9. 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 socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.

11. As noticed above, the appellant is a young lady aged about 21 years, staying alone along with her aged parents. Under the above circumstances, it is difficult for her to travel all the way from Chennai to Vellore to attend the court proceedings of the case filed by the respondent seeking annulment of marriage. Further, it is also just and proper to club all the three cases together to avoid multiplicity of the proceedings and conflict of decisions. Therefore,

the High Court was not justified in rejecting transfer petition bearing TR.C.M.P.No.473 of 2020, filed by the appellant herein.

12. Resultantly, the appeal succeeds and is accordingly allowed. The Order dated 19.11.2020 passed by the High Court in TR.C.M.P. NO.473 of 2020 is set aside. We direct transfer of F.C.O.P. No.125 of 2020 pending consideration before the Family Court, Vellore to the jurisdictional Family Court at Chennai. We also direct the clubbing of the aforementioned three cases so that a common order may be passed by the concerned Family Court at Chennai.

13. We direct the parties to bear their respective costs.

14. Pending application, if any, also stands disposed of.

.....J.
(S. ABDUL NAZEER)

.....J.
(J.K. MAHESHWARI)

New Delhi;
JULY 18, 2022.

ITEM NO.44 COURT NO.6 SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 16465/2021

(Arising out of impugned final judgment and order dated 19-11-2020 in TRCMP No. 473/2020 passed by the High Court of Judicature at Madras)

N.C.V. AISHWARYA Petitioner(s)

VERSUS

A.S.SARAVANA KARTHIK SHA Respondent(s)

(MEDIATION REPORT RECEIVED
IA No. 131896/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 131897/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 18-07-2022 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s) Mr. S. Gowthaman, AOR
Mr. Abhisar Thakral, Adv.
Mr. S. Muthukrishnan, Adv.
Ms. Hemlata, Adv.

For Respondent(s) Mr. Haripriya Padmanabhan, Adv.
Mr. Prahu Ramasubramanian, Adv.
Mr. Raghunatha Sethupathy B., Adv.
Mr. Shivani Vij, Adv.
Mr. K. Paari Vendhan, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.
The appeal is allowed in terms of the signed order.
Pending application, if any, also stands disposed of.

(NEELAM GULATI) (KAMLESH RAWAT)
ASTT. REGISTRAR-cum-PS COURT MASTER (NSH)
(Signed Reportable Order is placed on the file)