

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 4TH DAY OF JULY 2003

BEFORE

THE HON'BLE MR.JUSTICE V.G.SABHAHIT

CIVIL PETITION NO. 544 OF 2003

Between:

Mrs .Sharmila,  
aged major, w/o  
Rudresh Murthy, c/o  
Rajesh Electronics,  
Thoi pakall,  
Vamanjur, Mangalore.

Peti tioner

(By Sri.Prabhuling K.Navadgi, Adv.)

And:

Mr.M.Rudresh Murthy,  
Assistant Environment  
Officer, Karnataka State Pollution  
Control Board, Office of the Deputy  
Environment Officer,  
P.B No.1830/31,  
Opp:K.L.E. College Ground,  
Dr.Rajkumar Road,  
Bangalore-560 010.

Res pondent

(By Sri.R.Shailesh Kumar, Adv.)

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Civil Petition is filed Under Section 24 of CPC  
praying to withdraw M.C.No.155/2002 from Family Court  
of Mysore and transfer the same to the Family Court,  
Mangalore and etc.

Civil petition coming on for orders this day,  
the Court made the following:-

ORDER

This petition under Section 24 of the Code of Civil Procedure is filed for withdrawal of the M.C.No.155/2002 filed by the respondent on the file of the Family Court, Mysore and to transfer the same to the Court of Civil Judge(Senior Division), Mangalore, averring that the petitioner has been staying in the house of her parents as she was deserted by her husband and she has got a child aged 18 months and it would be inconvenient for her to travel to the Family Court at Mysore on the dates of hearing.

2. It is also averred that the respondent is a resident of Bangalore. It is further averred the petitioner-wife has filed a petition for maintenance in M.C.No.818/2002 on the file of the learned IV Additional Civil Judge(Junior Division) and JMFC, Mangalore.

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3. The petition is resisted by the respondent contending that the petitioner has gone away from the respondent's house and it would be inconvenient for him to travel to Mangalore as he is a Government employee at Bangalore. It is averred that the averments made in the petition that petitioner would be put to hardship and she is suffering from physical and financial difficulty are all false and no ground is made out for transfer of the petition.

4. I have heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondent.

5. It is well settled that in matrimonial proceedings, the inconvenience of wife has to be born-in-mind as held by the Supreme Court in the case of SUMITA SINGH VS. KUMAR SANJAY AND ANOTHER (AIR 2002 SUPREME COURT 396). Further, in the present case, the fact that petitioner-wife is having a child aged 18 months and she has filed a petition for maintenance in the JMFC Court at

Yes

Mangalore is not disputed and the respondent has been attending the proceedings at Mangalore Court in respect of the maintenance case filed under Section 125(1)(2) of the Criminal Procedure Code and wherefore, having regard to the facts and circumstances of the case, I hold that the interest of justice requires that matrimonial case filed by the petitioner at Family Court, Mysore, should be withdrawn and transfer<sup>red</sup> to the Court of learned Civil Judge(Senior Division), Mangalore as sought for and the hardship that would be caused to the respondent could be ~~eliminated~~<sup>alleviated</sup> by giving a direction that the Criminal case pending on the file of the JMFC and the MC case shall be posted on the same day if, any application is filed in that behalf. Accordingly, I pass the following order:

6. This Civil Petition is allowed. The Proceedings in MC NO.155/2002 on the file of the Family Court, Mysore is withdrawn and is

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transferred to the Court of Civil Judge (Senior Division), Mangalore. The learned Civil Judge is directed that if any application is made in that behalf, the ~~respondent's~~ <sup>up</sup> ~~case~~ shall be posted to the same day on which the petition for maintenance on the file of the JMFC, Mangalore in M.C.No.818/2002 is posted.

Sd/-  
Judge

kmv