

GAHC040009662023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Tr.P.(Crl.)/4/2023

Daniel Aku Yirang
S/o Lt. Mijing Yirang,
Permanent Resident of Ngopok Village, PO/PS Mebo, District East Siang, Arunachal Pradesh and a present resident of Anini, PO/PS Anini, District Dibang Valley, Arunachal Pradesh.

VERSUS

Yangki Tayeng
W/o Daniel Aku Yirang,
Permanent Resident of Village Ngopok, PO/PS Pasighat, District East Siang, Arunachal Pradesh and presently serving as Primary Teacher (PRT) at T.C.M (Tankakso Chai Memorial) School, Tezu, PO/PS Tezu, District Lohit, Arunachal Pradesh, and present resident of G Sector, PO/PS Naharlagun, District, PapumPare, Arunachal Pradesh.

Advocate for the Petitioner : T T Tara

Advocate for the Respondent :

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 25-07-2023

Heard Mr. J. Jini, the learned counsel for the petitioner and Mr. T. Dukam, the learned counsel for the respondent.

2. This is an application under Section 407 of Criminal Procedure Code, 1973 praying for transfer of the Domestic Violence Case No.08/2023 pending in the Court of Judicial Magistrate First Class, Yupia District Papum Pare, Arunachal Pradesh to the Court of Chief Judicial Magistrate, Tezu, Lohit District or any other Court within the jurisdiction of Sessions Court, Tezu District, Lohit.

3. It is stated that the petitioner is presently serving as Sheristadar in the Court of Judicial Magistrate First Class-cum-Civil Judge (Junior Division), Anini, District Dibang Valley, Arunachal Pradesh and also is a permanent resident of above mentioned address. The respondent being the wife of the petitioner has filed a Domestic Violence case before the Court of Judicial Magistrate First Class, Yupia District Papum Pare, Arunachal Pradesh for protection order under Section 18 (II) which is pending before the Judicial Magistrate First Class, Yupia seeking monetary relief along with other relieves.

4. However, the case is at the very initial stage and the trial of the said case has not yet commenced. However, after serving notice from the Court, the petitioner appeared before the Court but the

matter could not be taken up on 22.05.2023 and the next date for appearance and for offence explanation is fixed for 26.07.2023.

5. Neither the petitioner nor the respondent is a resident of G-Sector, Naharlagun, District Papum Pare. However, earlier the petitioner as well as the respondent were living together as husband and wife in the house constructed by his mother but presently neither petitioner nor respondent are staying in Naharlagun under Papum Pare District. The petitioner is a permanent resident of Ngopok village P.O/P.S Mebo, District East Siang, Arunachal Pradesh and also serving as Sheristadar in the Court of Judicial Magistrate First Class-cum-Civil Judge (Junior Division) in Anini, Dibang Valley District and hence, for the balance of convenience and for the interest of justice, it is prayed to transfer the Domestic Violence case No.08/2023 pending before the Court of learned Judicial Magistrate First Class, Yupia to the Court of Chief Judicial Magistrate, Tezu or any other Court within the jurisdiction of Sessions Court, Tezu. It is submitted that to appear before the Court of Judicial Magistrate First Class, Yupia, it takes 2 to 3 days to attend the Court which is very difficult on the part of the petitioner and hence, by the instant petition, he prayed for transfer of the case.

6. The learned counsel appearing on behalf of the opposite party/respondent filed an affidavit-in-opposition, wherein, it is

submitted that they do not have any objection, if the case is transferred to the Court of Chief Judicial Magistrate, Pasighat, East Siang District instead of Chief Judicial Magistrate, Tezu for convenience of both the parties and also considering the health issue of the respondent.

7. In this context, the learned counsel for the petitioner submitted that they do not have any objection if the case is transferred to the the Court of Chief Judicial Magistrate, Pasighat, East Siang District instead of Chief Judicial Magistrate, Tezu as he prayed for and it is submitted that it will be convenient for both the party to appear before the Court of learned Chief Judicial Magistrate, Pasighat, East Siang District. And hence, there is no objection if the case is transferred.

8. Considering the submission of the learned counsel for the petitioner, it is seen that both the parties has no objection, if the case is transferred to the Court of Chief Judicial Magistrate, Pasighat, East Siang District from the Court of Chief Judicial Magistrate, Yupia where the case is presently pending for disposal. He further reveals that it will be convenient for both the party to attend in the case before the learned the Court of Chief Judicial Magistrate, Pasighat, East Siang District instead of appearing before the Judicial Magistrate First Class, Yupia, District Papum Pare.

9. In view of above, the Domestic Violence case No.08/2023, is accordingly transferred to the Court of Chief Judicial Magistrate, Pasighat, East Siang District from Judicial Magistrate First Class, Yupia, District Papum Pare. The learned Judicial Magistrate First Class, Yupia, District Papum Pare will take immediate steps to transfer the case record of the Domestic Violence Case No.08/2023 to the Court of Chief Judicial Magistrate, Pasighat, East Siang District and both the parties are accordingly, directed to appear before the Chief Judicial Magistrate, Pasighat, East Siang District on 16.08.2023.

10. With the above observation, the instant petition stands disposed of.

JUDGE

Comparing Assistant