

GAHC010202582022



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

Case No. : Tr.P.(C)/101/2022

SMT. SANTI PRIYA BARUAH
D/O SRI KULENDRA BARUAH, R/O VILL-KALITAPARA, BHEBARGHAT
(NEAR BAMUNPARA L.P. SCHOOL), P.O. AND P.S.-MANGALDAI, DIST-
DARRANG, ASSAM, PIN-784125

VERSUS

MUKUT DAS
S/O LT. PRADIP DAS, R/O UDALGURI TOWN WARD NO. 1 (AMBIKAGIRI
PATH), MOUZA- UDALGURI, P.O. AND P.S.-UDALGURI, DIST- UDALGURI,
ASSAM, PIN-784509

Advocate for the Petitioner : MS. R D MOZUMDAR

Advocate for the Respondent : MR R DAS

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 20-01-2023

Heard Ms. R.D. Mozumdar, learned counsel for the Petitioner and Mr. S. Barman, learned counsel for the Respondent.

2. This is an application filed under Section 24 of the Code of Civil Procedure,

1908 seeking transfer of T.S. (D) No. 17/2022 from the Court of learned District Judge, Udalguri, to the Court of learned District Judge/Family Court, Darrang.

3. The case of the Petitioner is that the marriage between the Petitioner and the Respondent was solemnized on 01.02.2021 at Mangaldai as per Hindu rites and customs.

4. The Petitioner alleges that after a few days of marriage, the Respondent started to torture the Petitioner both physically and mentally because of which the Petitioner lodged an FIR in Tinsukia Police Station on 14.08.2021, thereafter in Udalguri Police Station on 24.02.2022 and in Dibrugarh Police Station on 28.02.2022. As the Respondent did not stop torturing the Petitioner even after filing of various FIRs, the Petitioner submitted a complaint before the Special Cell of Women which is an NGO at Dibrugarh regarding the physical and mental torture by the Respondent. Thereafter, the Respondent made a written declaration that he would not torture the Petitioner in future and that he would be responsible for any mental and physical torture committed by him. However, the Respondent did not stop torturing the Petitioner and the Respondent threw the Petitioner out of his house and therefore the Petitioner went to stay at her parental home at Mangaldai, Darrang.

5. Subsequently, the Petitioner came to Guwahati and started working at a private firm and the Petitioner filed an F.C. (Crl.) No. 273/2022 in the Court of Principal Judge, Family Court No. 2, Kamrup(M), claiming for maintenance allowance from the Respondent.

6. Thereafter, the Respondent filed a divorce petition being T.S. (D) Case No. 17/2022 in the Court of District Judge, Udalguri. The Petitioner states that she lost her job at Guwahati and went back to her parental home at Mangaldai, Darrang as she has no financial support.

7. It is the further case of the Petitioner is that she has no source of income and she is fully dependent upon her parents and as such it is not possible for her to travel from Darrang to Udalguri and to appear before the Court of learned District Judge, Udalguri. It is also relevant to take note that the learned counsel appearing on behalf of the Petitioner have also informed this Court that she is appearing as a legal aid counsel as the Petitioner has no source of income.

8. This Court on the basis of the said application had issued noticed on 30.09.2022 and stayed further proceeding T.S. (D) No. 17/2022 pending before the Court of learned District Judge, Udalguri.

9. I have heard the learned counsels for both the parties.

10. Taking into consideration that the Petitioner has expressed difficulties in her participation in the proceedings at Udalguri as she is a lady with no source of income and further taking into consideration that the Respondent is a financially independent person and he can very well participate if the proceedings are transferred with less inconvenience than the Petitioner, this Court is of the opinion that the Petitioner's prayer for transfer of the proceedings from the Court of learned District Judge, Udalguri to the Court of learned District Judge/ Family Court, Darrang should be allowed.

11. Accordingly, the proceeding in T.S. (D) No. 17/2022 is transferred from the Court of learned District Judge, Udalguri to the Court of learned District Judge/ Family Court, Darrang.

12. The Court of learned District Judge, Udalguri is directed to forthwith transfer the records to the Court of learned District Judge/Family Court, Darrang.

13. Interim order passed earlier stands vacated and the parties are directed to appear before the Court of District Judge/Family Court, Darrang on 01.03.2023

either personally or through their respective counsels and on which date the Petitioner shall file her written statement without fail.

14. The Registry is directed to intimate both the Courts below about this order.

15. With above observations and directions, the instant petition stands allowed and disposed of.

JUDGE

Comparing Assistant