

GAHC010202982022



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

Case No. : Tr.P.(Crl.)/36/2022

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 MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 17-03-2023

Heard Ms. R. D. Mazumdar, learned counsel for the petitioner.

2. None appears for the respondent on call, though the names of the three counsels have been shown in the cause list.

3. It is also noticed that the respondent remained absent on earlier occasion. Hence, the present petitioner is heard accordingly.

4. This application is filed under Section 407 of the Code of Criminal Procedure, 1973, praying for transfer of a case being F.C.(CrI) No. 273/2022 pending in the Court of Principal Judge, Family Court No.-II, Kamrup(M), at Guwahati, Assam to the Court learned Chief Judicial Magistrate, Darrang, Mangaldoi, due to long distance of travelling by the petitioner from her place of residence and also the fact that two different cases are pending in two different Courts of two different districts and the petitioner is residing in a third district.

5. The learned counsel for the petitioner has submitted that both the parties entered into wedlock on 01.02.2021 at Mangaldoi as per Hindu rites and customs. After few days of their marriage the opposite party/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 on 24.02.2022 and on Dibrugarh Police Station on 28.02.2022.

Subsequently, she was thrown out of the marital house and for which reason she stayed in Guwahati and got herself engaged in a private job. When she was staying in Guwahati she filed one F.C.(CrI)273/2022, in the Court of Principal Judge, Family Court No. II, Kamrup(M), Guwahati claiming for her maintenance allowance from the opposite party/respondent.

6. In the meantime, the opposite party/respondent also filed a divorce petition being numbered as T.S.(D) Case No.17/2022 in the Court of District Judge, Udalguri, Assam. The petitioner states that she lost her job at Guwahati and went back to her parental home at Mangaldoi, Darrang, as she has no financial support. Thereafter, the petitioner filed this transfer petition before this Court for transfer of the F.C.(CrI)273/2022, in the Court of Principal Judge, Family Court No. II, Kamrup(M), Guwahati to the Court of learned Chief Judicial Magistrate, Darrang, as the petitioner is presently staying in Mangaldoi at Darrang with her parents, but said case was lodged when she was staying in Guwahati.

7. Further, it is stated that due to financial constraints it is not possible for the petitioner to come to Guwahati to attend the proceedings of F.C.(CrI)273/2022, which is pending in the Court of Principal Judge, Family Court No. II, Kamrup(M), Guwahati and also not possible for her to attend the T.S.(D) Case No.17/2022, in the Court of District Judge at Udalguri, B.T.C., Assam. Thus, the petitioner is not in the position to bear the expenses to come from Mangaldoi to Guwahati and from Mangaldoi to Udalguri.

8. From the above stated reasons, the petitioner also filed one transfer petition being numbered as Tr.P.(C)/101/2022, dated 20.01.2023, which was

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 and accordingly the said prayer was allowed.

9. In view of above observation, the petitioner is seeking for transfer of F.C. (CrI)273/2022, which is pending in the Court of Principal Judge, Family Court No. II, Kamrup(M), Guwahati to the Court of learned CJM, Darrang, Mangaldoi. It is also submitted that the T.S.(D)No.17/2022 has already been transferred to the Court of learned District Judge/Family Court, Darrang, and hence, present petition may be allowed to be transfer to the Court of learned CJM, Darrang, so it may be convenient on the part of the petitioner to attend the Court in the said two proceedings, as she is presently staying at Darrang in Mangaldoi with her parents.

10. It is further submitted by the learned counsel for the petitioner that the respondent is the resident of Udalguri and hence, it will be convenient for him too to attend the Court proceedings, if it is transfer to the Court of learned CJM, Darrang, Mangaldoi.

11. Accordingly, considering the submissions made by the learned counsel for the petitioner and entire aspects of this case, I find it appropriate to transfer the case of F.C.(CrI)273/2022, pending in the Court of Principal Judge, Family Court No. II, Kamrup(M), Guwahati to the Court of learned CJM, Darrang, Mangaldoi. Considering the entire fact, it will be convenient for both the parties to attend the proceedings in the District of Darrang.

12. Accordingly, the learned Principal Judge, Family Court No. II, Kamrup(M), Guwahati is hereby asked to transfer the case of F.C.(Crl)273/2022 to the Court of learned CJM, Darrang, Mangaldoi with a direction to both the parties to appear before the said Court on **28.04.2023**.

13. In terms of above observations, this transfer petition stands dispose of.

14. Send a copy of this order to the learned Principal Judge, Family Court No. II, Kamrup(M), Guwahati.

JUDGE

Comparing Assistant