

**HIGH COURT OF TRIPURA
AGARTALA**

Tr.P. (Crl.) No.01 of 2024

Smt. Pallabi Banik

.....Petitioner(s);

Versus

Sri Srikanta Dey & another

.....Respondent(s)

For Petitioner(s) : Mr. Ratan Datta, Advocate.

For Respondent(s) : Mr. Raju Datta, Public Prosecutor,
Mr. D. Datta, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

26/04/2024

Heard Mr. Ratan Datta, learned counsel for the petitioner and Mr. D. Datta, learned counsel for the respondent-husband.

2. The relevant part of the previous order dated 15.03.2024 has been extracted hereunder to avoid repetition of the case of the petitioner:

“Petitioner is the wife of respondent No.1 who seeks transfer of R.K. Pur P.S. case No.2023WRP065 registered under Section 498A of the IPC on her complaint before Belonia Women P.S. from the Court of learned Judicial Magistrate 1st Class, Udaipur, Gomati Tripura to the competent Court in Belonia in South Tripura District. The marriage between the parties was solemnized on 27.11.2022. However, alleging physical and mental torture, a zero F.I.R. was registered before Belonia Women P.S. which is the parent place of the petitioner on 15.09.2023. The same stood transferred to R.K. Pur Women P.S. under Gomati District where it was registered on 16.09.2023. Petitioner apprehends threat at the hands of the respondents while prosecuting the case at Gomati. Petitioner also contends that it was difficult for her to commute from Belonia to Gomati to prosecute and attend the case on every date. The case has been instituted by her. Therefore, it should be transferred to the competent Court at Belonia in South Tripura.”

Respondent-husband has appeared on notice. Learned counsel for the respondent-husband submits that the husband is a daily wage earner. If the case is transferred to the jurisdiction of Belonia Court, the respondent-husband may have to travel to attend the case on every date whereas the petitioner, being the complainant, may not have to attend the proceedings of the criminal case on

each and every date as per the present scheme of the Criminal Procedure Code as the investigation and prosecution is basically to be carried out in such cases by the State agency. It is, therefore, submitted that the balance of convenience lies in favour of the respondent-husband.

3. Learned counsel for the petitioner has placed reliance upon a decision of the Apex Court in the case of *N.C.V. Aishwarya v. A.S. Saravana Karthik Sha* reported in *2022 SCC OnLine SC 1199* relating to the transfer case under Section 24 of the Code of Civil Procedure at the instance of the wife where the Apex Court observed that it is the wife's convenience which must be looked at while considering transfer.

4. On consideration of rival submission of the parties and after going through the relevant pleadings placed from record, this Court is also of the considered view that the PRC(WP) No.136 of 2023 arising out of R.K. Pur P.S. case No.2023WRP065 pending before the Court of Judicial Magistrate 1st Class, Udaipur, Gomati Tripura should be transferred to the competent Court of criminal jurisdiction in Belonia, South Tripura.

5. The instant complaint case was first registered before Belonia Women Police Station at the instance of the petitioner-wife who complained of physical and mental torture in marriage at the behest of the respondent No.1-husband. The said case was registered under Section 498A of the IPC, but was transferred to R.K. Pur Women Police Station, Udaipur, Gomati Tripura and registered on 16.09.2023 that is where the matrimonial home lies. However, since the petitioner is a lady, primacy of convenience lies in her favour and it

would be difficult for her to commute from Belonia to Udaipur to prosecute and attend the case before the Court of learned Judicial Magistrate 1st Class, Udaipur, Gomati Tripura without any independent source of income. Reference is also made to the decision in *Rupali Devi v. State of Uttar Pradesh and Others* reported in (2019) 5 SCC 384.

6. It also appears that the petitioner has already lodged a maintenance case before the learned Family Court, Belonia bearing Misc. Case No. 33/2023 against the respondent-husband. As such, respondent No.1-husband in any case has to attend to the maintenance case at Belonia. As such, interest of justice would be served if the instant petition is allowed to be transferred from the Court of Udaipur to Belonia. Accordingly, the prayer is allowed. Let the records of PRC(WP) No.136 of 2023 be transferred from the Court of Judicial Magistrate 1st Class, Udaipur, Gomati Tripura to the competent Court of Judicial Magistrate 1st Class, Belonia, South Tripura.

7. Interim stay order stands vacated. Pending application(s), if any, shall also stand disposed of.

(APARESH KUMAR SINGH), CJ

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