

**HIGH COURT OF TRIPURA
AGARTALA**

Tr.P.(C) No.12/2024

Smti. Manika Das, Age-21 years, W/O. Shri Sukesh Das, D/O. Ratan Das,
Resident of Ward No.1, Udaipur Rajarbag Das Para, P.O.-Rajarbag Panchayat
Chowmuhani, P.S.-Radhakishorepur, District-Gomati Tripura, PIN-799114.

..... Petitioner(s).

V E R S U S

Shri Sukesh Das, S/O. Late Ranjit Das, Resident of Rangamura, Melaghar,
P.O.-Rudijala, P.S.-Melaghar, District-Sepahijala Tripura, PIN-799115.

.....Respondent(s).

For Petitioner(s) : Mrs. P. Chakraborty, Advocate.

For Respondent(s) : Mr. Samar Das, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

04/12/2024

Heard Mrs. P. Chakraborty, learned counsel for the petitioner-wife
and Mr. Samar Das, learned counsel for the respondent-husband.

Though time was earlier allowed to the respondent to file counter
affidavit but learned counsel for the respondent submits that because of certain
exigency, counter affidavit could not be filed. He has instead made oral
submissions.

Petitioner is the wife who seeks transfer of T.S.(RCR) No.11 of
2024 from the Court of learned Family Judge, Sonamura, Sepahijala District to
the Court of learned Family Judge, Udaipur, Gomati Tripura. According to the
petitioner, due to torture after three months of the marriage she had been
compelled to stay with her parents. Out of the marriage, a daughter was born
who is 5(five) year old and is staying with the petitioner. The father of the
petitioner is a daily wager. Petitioner-wife has no source of income. Therefore,
it would be difficult for her to contest the suit if it is not transferred to the Court
of learned Family Judge, Udaipur, Gomati Tripura.

Learned counsel for the petitioner further submits that petitioner has also lodged a criminal case bearing No.CR (DV) 4244 of 2024 under Section 12 read with Section 19(8) of the Protection of Women from Domestic Violence Act, 2005 which is pending before the learned Chief Judicial Magistrate, Udaipur. Learned counsel for the petitioner submits that in those circumstances, not only it is onerous and expensive for the petitioner with a minor daughter of 5(five) year old to attend to the proceedings of the matrimonial suit before the learned Family Court, Sonamura but the respondent-husband also in any case has to attend to the Domestic Violence case instituted by her at Udaipur. It is, therefore, submitted that the matrimonial suit may be transferred from the learned Family Court, Sonamura to learned Family Court, Udaipur.

Learned counsel for the respondent has opposed the prayer. He submits that the respondent is ready and willing to provide the expenses for litigation and attending the proceedings of the matrimonial suit before learned Family Court, Sonamura. It is further submitted that Sonamura and Udaipur are not separated by large distance. Therefore, it would not be onerous or expensive for the petitioner to attend to the proceedings of the matrimonial suit before the learned Family Court, Sonamura. Learned counsel for the respondent, however, does not dispute that a criminal case under Domestic Violence Act has been instituted by the petitioner-wife against him before the learned Chief Judicial Magistrate, Udaipur which he has to attend to. However, he submits that the proceedings may not be transferred.

I have considered the submissions of learned counsel for the parties and taken note of the relevant and attendant material facts.

It appears that since the petitioner is without sources of income and has to maintain a 5(five) year old daughter and that the only source of sustenance is from her father who is only a daily wager, petitioner may face genuine difficulties in commuting to and attending the proceedings of the matrimonial suit before the learned Family Court, Sonamura instituted by the respondent-husband. On the other hand, respondent would have to attend to the proceedings of the criminal case under Domestic Violence Act instituted by the petitioner before learned Chief Judicial Magistrate, Udaipur. In such circumstances, respondent being the husband would be in a better position to prosecute and attend to the matrimonial suit if it is transferred from learned Family Court, Sonamura, Sepahijala to learned Family Court, Udaipur, Gomati even by the argument that both the places are not separated by large distance. In such cases, convenience of the wife is to be given primacy.

Therefore, this Court is of the considered view that the petitioner has made out a case for transfer of T.S. (RCR) No.11 of 2024 from the Court of learned Family Judge, Sonamura, Sepahijala District to the Court of learned Family Judge, Udaipur, Gomati Tripura. It is ordered accordingly.

The transfer petition is disposed of.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

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