

**HIGH COURT OF TRIPURA
AGARTALA**

Tr.P.(C) No.16 of 2024

Smt. Rina Chanda Shil @Rina Rani Chanda, W/o Shri Sankar Shil, D/o Late Sunil Chanda, resident of Kalyanpur, P.S.-Kalyanpur, P.O. Kalayanpur, District-Khowai, Pin-799203.

..... Petitioner(s).

Versus

Shri Sankar Shil, S/o Late Nagendra Shil, resident of Harinakhala, P.O. Sidhai, P.S. Sidhai, District-West Tripura, Pin – 799212.

..... Respondent(s).

For Petitioner(s) : Mrs. P. Chakraborty, Legal Aid Counsel.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

ORDER

11/12//2024

Heard Mrs. P. Chakraborty, learned counsel for the petitioner-wife who is a legal aid counsel.

Petitioner instituted T.S. (Divorce) No. 112/2023 before the learned Judge, Family Court, West Tripura, Agartala under Section 13(1)(i-a)(i-b) of the Hindu Marriage Act, 1955 for decree for dissolution of marriage on the ground of cruelty and desertion. She has also filed a complaint before the Sidhai P.S. vide Sidhai P.S. Case No.63/2014 U/S-498(A)/325 of IPC against her husband which also falls within the jurisdiction of West Tripura District. She has been allowed maintenance @ Rs.2,700/- per month by the learned Additional Judge, Family Court, West Tripura, Agartala under Section 125 of Cr.P.C. vide Misc. No.51/2016 dated 21.12.2017. The marriage between the parties was solemnized on 18.07.2013. According to the petitioner, after her marriage she has been compelled to live separately due to physical and mental torture on non-fulfillment of additional demand of dowry. She is living with her parents at Kalyanpur, Khowai District and

without any sources of income. She is dependent upon her old-age mother while her father has expired. She is finding it difficult to commute from Khowai to Agartala to prosecute the case before the learned Additional Judge, Family Court, West Tripura, Agartala. Therefore, she is seeking transfer of the suit to the competent Family Court at Khowai.

Learned counsel for the petitioner submits that the petitioner is 47 years old. She also has certain eye problems and she may not be able to properly prosecute the suit if it is not transferred to Khowai. Therefore, payer may be allowed.

I have considered the submission of the learned counsel for the petitioner and taken note of the relevant facts placed from the pleadings on record. Petitioner is the *dominus litis*. She has consciously chosen the forum of learned Judge, Family Court, West Tripura, Agartala to prosecute her suit for divorce on grounds of cruelty and desertion instituted in the year 2023. She has consciously chosen to institute a criminal case at Sidhai P.S. against the respondent-husband under Sections 498(A)/325 of IPC which also falls under the territorial jurisdiction of West Tripura District. Now, she has come forward for getting the case transferred to competent Family Court at Khowai citing personal difficulty.

In the circumstances narrated above, this Court is not satisfied that merely for convenience sake the suit which has been instituted by the petitioner herself at West Tripura District should be transferred to Khowai which is not separated by large distance. Petitioner is getting legal aid for prosecuting the present petition. The learned Additional Judge, Family Court, West Tripura, Agartala can also request the District Legal Services Authority,

West Tripura to provide legal aid to her if she makes such an application. The learned Additional Judge, Family Court, West Tripura, Agartala would also consider whether petitioner would be entitled to cost of litigation and proceedings to prosecute the suit at West Tripura, Agartala. However, in view of the facts and circumstances discussed above, it would not be proper to transfer the suit to the competent Family Court at Khowai, Tripura when there is no justifiable basis for that.

Accordingly, the instant petition is dismissed. Pending application(s), if any, shall stand disposed of.

(APARESH KUMAR SINGH), CJ

