

**HIGH COURT OF TRIPURA
AGARTALA**

Tr. P.(Crl.) No.5 of 2023

Sri Bijan Kanti Biswas

.....Petitioner(s)

Versus

Smt. Jyoti Sarkar (Biswas)

.....Respondent(s).

For Petitioner(s) : Mr. D. J. Saha, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

04/01/2024

Heard learned counsel for the petitioner.

[2] Petitioner is the husband who seeks transfer of 3(three) cases which were instituted by the respondent-wife, i.e. Criminal Misc. No.56/2023, CR. Misc(Exe) No.18/2022 and CR. Misc.(Exe) No.19/2022 which are pending before the learned Family Judge, Udaipur, Gomati Tripura District to the court of competent jurisdiction in Sepahijala District.

[3] The parties entered into nuptial knot on 19.07.2010 as per Hindu Rites and Customs at the parental house of the petitioner in Sonamura under Sepahijal District. After they consummated their marriage, a male child was born on 08.08.2011, who is residing with the respondent. Since 22.01.2017, the respondent is living in her parental house along with the minor son. Petitioner alleges that the respondent, despite being aware of the multiple disabilities suffered by the petitioner since 2015, has chosen to withdraw from his society and deserted him permanently since 2017. The District

Disability Medical Board certified him to be suffering from 80% disabilities which are computed as 55% hearing impairment, 45% locomotor disability and 70% mental illness due to psychosis (Annexure-1). Therefore, the petitioner is facing genuine difficulty to attend the cases pending before the learned Family Judge, Udaipur, Gomati Tripura District. Learned counsel for the petitioner prays that the cases may, therefore, be transferred to the competent Court in Sepahijala District.

[4] On consideration of the submissions of the learned counsel for the petitioner and after going through the relevant pleadings on record and upon being asked, it has come to the notice of this Court that Gomati and Sepahijala are separated by a distance of about 50/60 k.m. only. Petitioner is suffering from locomotor disability of 45% only as per the disability report, which is not a handicap for his movements. Respondent is a lady, fighting for maintenance before the learned Family Judge, Udaipur, Gomati District and also prosecuting execution case for enforcement of the interim maintenance against the petitioner. She is also maintaining a minor male child, aged about 12 years. Primacy of convenience in such disputes between spouses lies in favour of the wife. In case the prayer of the petitioner is acceded to, the wife would also be adversely affected as she will have to attend to the cases instituted by her for maintenance against the petitioner by commuting to Sepahijala.

[5] As such, though petitioner may be suffering from disability but the locomotor or hearing disability is not such, which could handicap the petitioner from attending to the proceedings of the Family Judge, Udaipur, Gomati District. Petitioner has appeared before this Court through Legal Aid

Counsel. He is also at liberty to avail legal aid through the District Legal Services Authority, Gomati District. The District Legal Services Authority, Gomati District, will see if the petitioner is eligible for legal aid in terms of Section 12 of the Legal Services Authorities Act, 1987. However, this Court does not find any tenable grounds to interfere in the matter and direct transfer of the cases being prosecuted by the respondent for maintenance from Gomati District to Sepahijala District. The petitioner should abide by the directions of the Family Court towards award of maintenance for which two execution cases are being prosecuted by the respondent wife. Learned Family Judge, Udaipur, Gomati District, would also endeavour to conclude the proceedings in the maintenance case in a time bound manner, preferably within 4(four) months from the date of receipt of the copy of this order. Parties are expected to cooperate and not seek any adjournment.

[6] Accordingly, the instant petition is dismissed. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ