

GAHC010114362023



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

Case No. : Tr.P.(C)./49/2023

SMTI BINU DAS NATH
W/O SRI GANESH CHANDRA NATH, D/O LATE FELUWA DAS, R/O VILL-
PANISOKUWA, P.S.-PULIBOR, DIST- JORHAT, ASSAM

VERSUS

GANESH CHANDRA NATH
S/O NIRPATI CHANDRA NATH, R/O TATIMARA, P.O.-CHANDRAPUR, P.S.-
PRAGJYOTISHPUR, GUWAHATI-50, DIST-KAMRUP (M), ASSAM

For the Petitioner(s) : Mr. R. Chetri, Advocate.

For the Respondent(s) : Ms. C. Buragohain, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 11.03.2024

1. This is an application filed under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of F.C.(Civil) Case No.80/2023 from the Court of the Principal Judge, Family Court No.2, Kamrup (M), Guwahati to the Court of the learned District Judge, Jorhat.

2. The case of the Petitioner is that the marriage between the Petitioner and the Respondent was solemnized on 19.01.2016 under Special Marriage Act, 1954 and since then, the Petitioner and the Respondent were living as husband and wife at Chandrapur, Guwahati in the District of Kamrup (M), Assam.

3. The learned counsel for the Petitioner submitted that the Respondent had an earlier wife whom he divorced on 30.09.2015 and married the Petitioner with a promise to keep her happily. But the marriage life of the Petitioner was not at all happy as she had been humiliated by the Respondent and his other family members just on the next day of her marriage and thereafter tortured the Petitioner. It has also been alleged that on various occasion, the Petitioner was thrown out from the house of the Respondent. The learned counsel further submitted that the Respondent has an affair with a widow and used to bring her to the house and both used to torture the Petitioner both physically and mentally saying that the Petitioner could not give birth to a baby. The learned counsel for the Petitioner further submitted that after getting continuous mental and physical torture, the Petitioner informed her family members and they informed all the incidents to the Gaobura of Village Tatimora and lodged an FIR on 02.03.2022 at Pragjyotishpur Police Station and on that very day, she was forced by the Respondent to return her parental house and since then the Petitioner is living in her parental house at Jorhat.

4. The learned counsel for the Petitioner stated that the Petitioner has received summons from the Principal Judge, Family Court-II, Kamrup (M) in connection with F.C.(Civil) Case No.80/2023 filed by the Respondent whereby she was asked to appear on 27.02.2023 and the Petitioner duly appeared before the said Court. The case of the Petitioner is that at present she is residing at

Jorhat which is far from Guwahati and as such it would be difficult on her part to travel such a long distance alone to appear before the Court of learned Principal Judge, Family Court No.2, Kamrup (M). Further to that, it was mentioned that the Petitioner has no other source of income except the monthly maintenance of Rs.3,400/- which she receives from the Respondent pursuant to Section 125 of the Cr.P.(C) proceedings.

5. I have heard the learned counsels for both the parties. Considering the above and also taking into account that the Petitioner is a lady and she has no independent source of income except stated above, it is the opinion of this Court that allowing the proceedings to continue at Kamrup, Guwahati would be difficult on her part to appear on each and every date. This Court is of the opinion that ends of justice would be met if F.C.(Civil) Case No.80/2023 pending before the Court of the Principal Judge, Family Court No.2, Kamrup (M), Guwahati is transferred to the Court of the learned District Judge, Jorhat.

6. Accordingly, the proceedings in F.C.(Civil) Case No.80/2023 is transferred from the Court of the Principal Judge, Family Court No.2, Kamrup (M), Guwahati to the Court of learned District Judge, Jorhat.

7. The parties are directed to appear before the Court of District Judge, Jorhat on 22.04.2024.

8. The Court of the learned Principal Judge, Family Court No.2, Kamrup (M), Guwahati is directed to forthwith transfer the records to the Court of the District Judge, Jorhat.

9. The interim order dated 05.06.2023 stands vacated and the learned Court of the District Judge, Jorhat shall proceed with the disposal of the proceedings

in accordance with law.

10. The Registry is directed to intimate both the Courts below about the instant order.

11. With above observations and directions, the instant petition stands allowed.

JUDGE

Comparing Assistant