

GAHC010237342022



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

Case No. : Tr.P.(Crl.)/37/2022

RADHIKA RABHA AND ANR
W/O. SRI RATAN HAJONG, D/O. SRI RAMESH RAVA, VILL. KATHIATALI
KACHARIPARA, P.O. KATHIATALI, PIN-782427, P.S. KAMPUR, DIST.
NAGAON, ASSAM.

2: PUTUL RAVA

S/O. LT. NAGEN RABHA
VILL. KATHIATALI KACHARIGAON
P.O. AND P.S. KAMPUR
PIN-782427
DIST. NAGAON
ASSAM

VERSUS

RATAN HAJONG
S/O. UPEN HAJONG, VILL. GHUNGHUNI BHITA, PIN-783129, P.S. LAKHIPUR,
DIST. GOALPARA, ASSAM.

Advocate for the Petitioner : MR. B C DAS,

Advocate for the Respondent : ,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 11-12-2024

Heard Mr. B.C. Das, the learned counsel for the petitioners.

2. From the Office Note as well as from the report of the Lawazima Court, it is seen that notice is duly served on the sole respondent but no one represented the sole respondent.

3. This is a petition u/s 407(1)(ii) of the Cr.PC for transfer of Case No. CR 21/2022, pending before the Court of Munsiff Magistrate No. 2, Goalpara to a similar competent Criminal Court at Nagaon.

4. It is submitted by Mr. Das, learned counsel for the petitioner that due to physical and mental torture on the petitioner no. 1 she had to institute a Matrimonial Suit (Divorce) in the Court of District Judge, Nagaon for dissolution of her marriage with the respondent no. 2 which is numbered as Matrimonial Suit (D) No. 127 of 2021. After getting the notice in the said divorce suit, a complaint has been lodged by the respondent against the petitioner no. 1 and the petitioner no. 2 with some false and concocted allegation which has been registered as Criminal Case No. CR 21/2022 before the Court of CJM, Goalpara and which has now been transferred before the Court of Munsiff No. 2 Judicial Magistrate, 1st Class, Goalpara being C.R. Case No.21/2012. It is submitted by the learned counsel for the petitioner that petitioner no. 1 is a very poor woman and she has a minor daughter and she is not in a position to attend the Court of Munsiff No. 2 at Goalpara on each and every date leaving her minor daughter. Further he submitted that from Nagaon to Goalpara is quite a long distance and hence she cannot return back to her place after attending the Court of Goalpara. She has no one to look after her minor child and also she is not in a position to incur the expenses for attending the Court at Goalpara. More so, as

the divorce suit is pending before the Court of Nagaon, the respondent is facing trial before the District Judge, Nagaon and hence it will be convenient for both the parties to attend the Court at Nagaon instead of Goalpara and accordingly the present petition had been filed for transfer of Case No. CR.21/2022 pending before the Court of JMFC, Goalpara to any other competent Court at Nagaon.

5. Considering the submission made by the learned counsel for the parties, it is seen that complaint case is lodged by the present petitioner in the Court of CJM, Goalpara and which is pending for appearance before the Judicial Magistrate, 1st Class-cum-Munsiff No. 2 at Goalpara and cognizance has already been taken against the present two petitioners vide order dated 29.05.2022.

6. Considering the submission made by the learned counsel for the petitioner and other materials available in the case record, it is seen that one divorce suit is already pending between the parties in the Court of learned District Judge, Nagaon and considering the grounds mentioned in the present petition for transfer, this Court is of the opinion that it is a fit case where the C.R. Case No. 21 of 2022 pending before the learned JMFC-cum-Munsiff Magistrate No. 2, Goalpara may be transferred to any Court in Nagaon having competent jurisdiction.

7. With the above observations, the present petition is allowed accordingly and the C.R. Case No. 21 of 2022 pending before the Court of learned JMFC-cum-Munsiff No. 2 be transferred to the Court of learned CJM, Nagaon for onward transmission to any other competent Court having jurisdiction to try the same. The learned CJM, Goalpara will accordingly take steps in transmitting the case records to the Court of CJM, Nagaon. Copy of the order be accordingly furnished before the Court of learned CJM, Goalpara and learned CJM, Nagaon.

- 8.** Both the parties are also directed to appear accordingly.
- 9.** With the above observations, the present transfer petition is disposed of.

JUDGE

Comparing Assistant