

**HIGH COURT OF TRIPURA
AGARTALA**

Tr.P.(Crl.) No.03 of 2025

Dr. Amaresh Bhowmik,
Son of Sri Rabindra Kumar Bhowmik,
Resident of Bajrabari, Garji,
P.O. & P.S.- R.K. Pur,
Udaipur, District- Gomati Tripura,
PIN-799125.

....Petitioner(s).

Versus

(1) Mukta Begam,
D/O- Dulal Miah,
Resident of Dataram, Bajrabari,
P.O.-Garji, P.S.- R.K. Pur,
Udaipur, District- Gomati Tripura,
PIN-799125.

(2)The State of Tripura,
Represented by Ld. P.P.,
High Court of Tripura,
Agartala.

.....Respondent(s).

For Petitioner (s)	:	Mr. Bibek Banerjee, Adv. Ms. Ruma Majumder, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P. Mr. Sankar Lodh, Adv.

Date of Hearing
and delivery of
Judgment and Order : 20.09.2025

Whether fit for
Reporting : **NO**

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order (Oral)

Heard Learned Counsel, Mr. Bibek Banerjee
appearing on behalf of the petitioner and also heard Learned
Counsel, Mr. Sankar Lodh appearing on behalf of the

respondent No.1 and Learned P.P., Mr. Raju Datta appearing on behalf of the respondent No.2.

02. This present petition is filed under Section 447 of BNSS, 2023 read with Section 407 of Cr.P.C. for transferring the Criminal Case bearing No.Crl. Misc. 530 of 2024 along with Crl. Misc.(Int) 532 of 2024 pending in the Court of Learned Additional Judge, Family Court, Agartala, West Tripura to the Court of Learned Judge, Family Court, Udaipur, Gomati Tripura.

03. At the time of hearing, Learned Counsel, Mr. B. Banerjee appearing for the petitioner drawn the attention of this Court to Annexure-1 i.e. the application for granting of maintenance where the respondent OP has shown her address at Udaipur. Similarly, in connection with Case No.P.R.C(SP)47/2024 in between the State of Tripura Vs. Kakali Datta Dey and Others, the said respondent has shown her address at Udaipur, Gomati District.

04. Learned Counsel, Mr. B. Banerjee appearing for the petitioner further drawn the attention of this Court referring the affidavit-cum-declaration of alleged marriage wherein the respondent has shown her address at Bagarpara, Chandrapur, District-Gomati Tripura and in the said affidavit it was also stated that the alleged marriage of the parties under dispute have been solemnized at Bajrabari, Garjee, Matabari, Udaipur, District-Gomati Tripura.

05. Learned Counsel, Mr. B. Banerjee appearing for the petitioner further submitted that the proceeding under Section 498A against the present petitioner is still pending at Udaipur under Section 498A of IPC which appears from the document i.e. Annexure-R/4 submitted by the respondent No.1. So, in such a situation, it would be prudent that since the present respondent OP is the permanent resident of Udaipur so the aforesaid proceeding may be transferred from the Court of Learned Addl. Judge, Family Court, Agartala, West Tripura to Learned Judge, Family Court, Gomati District, Udaipur.

06. Learned Counsel, Mr. Banerjee again submitted that the petitioner is a doctor and it would be inconvenient on his part if the case remains pending at Agartala and since the respondent is the permanent resident of Udaipur so it would be convenient if the petition is allowed by transferring this case from Agartala to Udaipur. In support of his contention, Learned Counsel for the petitioner relied upon one citation of Hon'ble Supreme Court of India in ***Eluri Raji Reddy and Others and State of Delhi and Another*** reported in **(2004) 4 SCC 479** wherein in Para No.7, Hon'ble the Apex Court observed as under:-

"7.Having heard learned counsel for the parties, but without expressing any opinion on the allegations and counter-allegations made against one another, which are sub judice in the main proceedings, we are of the opinion that it will be for better convenience of the parties and in the interest of justice if both the cases pending in the Court of Metropolitan Magistrate, New Delhi titled *State of Delhi v. Eluri Raji Reddy* arising in FIR No.385 of 2000, Parliament Street Police Station and petition under Section

125 CrPC for grant of maintenance filed by the respondent wife pending in the Court of Metropolitan Magistrate, Patiala House, New Delhi tilted *Eluri Manemma v. Eluri Raji Reddy* in CC No.75 of 2000 are transferred to a court of competent jurisdiction at Hazurabad, Karimnagar district, Andhra Pradesh. Accordingly, the transfer petitions filed by the husband are allowed. Since we are transferring both the cases filed by the wife, pending at New Delhi, to a court of competent jurisdiction at Hazurabad, Karimnagar district, Andhra Pradesh, Transfer Petition (Civil) No.342 of 2003 filed by her is dismissed. It is directed that both the abovementioned cases pending in the Court of Metropolitan Magistrate, New Delhi shall stand transferred to the Court of District and Sessions Judge, Karimnagar District, Andhra Pradesh."

Referring the same Learned Counsel has submitted that this present case is squarely covered by the said judgment of the Hon'ble Apex Court. As such, the present petition filed by the petitioner may be allowed for fair ends of justice.

07. The OP contested the proceeding by filing objection denying the assertions of the petitioner. However, at the time of hearing Learned Counsel, Mr. S. Lodh appearing on behalf of the respondent No.1 drawn the attention of this Court that in Para Nos.3, 4 and 5 of the petition, the petitioner has asserted that the respondent No.1 is a married woman having a minor son and her husband's name is Delowar Hossain and the present respondent No.1 filed a maintenance case against her husband which was dismissed for non prosecution.

08. It was further asserted that during subsistence of her earlier marriage with one Delowar Hossain, the respondent No.1 again married another person namely Ujjal Hossain of Dataram under R.K. Pur P.S. Gomati District and for that she was implicated in a criminal case under R.K. Pur P.S. vide

No.65 of 2024 under Section 325/384/34 of IPC and the said case was registered on the basis of an FIR laid by one Smt. Juthika Bhowmik on 28.02.2024 and in the said case charge-sheet was submitted against the accused persons including the respondent No.1 which was re-numbered as Case No.PRC(SP) 47 of 2024 and in Para-6, it was asserted that respondent after the incident occurred on 28.02.2024 left Udaipur and took shelter at Agartala. According to Learned Counsel for respondent No.1, on and from that period she is staying at Agartala and in support of his contention Learned Counsel relied one citation of the Hon'ble Supreme Court of India in **Mst. Jagir Kaur and another Vs. Jaswant Singh** reported in **1963 AIR(SC) 1521** wherein in Para No.6, Hon'ble the Apex Court observed as under:-

"6. The first word is "resides". A wife can file a petition against her husband for maintenance in a Court in the District where he resides. The said word has been subject to conflicting judicial opinion. In the Oxford Dictionary it is defined as : dwell permanently or for a considerable time; to have one's settled or usual abode; to live in or at a particular place". The said meaning, therefore, takes in both a permanent dwelling as well as a temporary living in a place. It is, therefore, capable of different meanings, including domicile in the strictest and the most technical sense and a temporary residence. Whichever meaning is given to it, one thing is obvious and it is that it does not include a casual stay in, or a flying visit to a particular place. In short, the meaning of the word would, in the ultimate analysis, depend upon the context and the purpose of a particular statute. In this case the context and purpose of the present statute certainly do not compel the importation of the concept of domicile in its technical sense. The purpose of the statute would be better served if the word "resides" was understood to include temporary residence. The juxtaposition of the words "is" and "last resided" in the sub-Section also throws light on the meaning of the word "resides". The word "is", as we shall explain later, confers jurisdiction on a Court on the basis of a casual visit and the expression "last resided", about

which also we have something to say, indicates that the Legislature could not have intended to use the word "resides" in the technical sense of domicile. The word "resides" cannot be given a meaning different from the word "resided" in the expression "last resided" and, therefore, the wider meaning fits in the setting in which the word "resides" appears. A few of the decisions cited at the Bar may be useful in this context."

09. Learned Counsel for the respondent No.1 also referred the provision of Section 126 of Cr.P.C. wherein it was mentioned where to file the case. Referring the citation of the Hon'ble Apex Court, Learned Counsel submitted that since the respondent No.1 being the wife of the present petitioner is residing at Agartala at present and considering the facts and circumstances of the case and in view of the principle of law laid down by the Hon'ble Apex Court, she has rightly filed the case against the petitioner here at Agartala and at this stage there is no scope to transfer the petition. Learned Counsel also drawn the attention of this Court to the declaration of marriage as relied upon by the petitioner and submitted that the said affidavit was executed at Agartala which indicates that the respondent is staying at Agartala at present.

10. Learned Counsel further referred Annexure-2, the application for maintenance filed by the present respondent against one Delowar Hossain and submitted that their marriage has been dissolved by a Talaknama on 10.11.2019 which is annexed in this petition and on and from date from that day there is no marital bondage between the respondent and said Delowar Hossain and since the present petitioner is a doctor by

profession and he is so influential that inspite of marrying the respondent No.1 he is denying his relation with the respondent No.1 and furthermore, referring order dated 13.08.2024 (Annexure-R/3) passed by Learned CJM, Gomati District, Udaipur in PRC (WP) No.37 of 2024, Learned Counsel drawn the attention of this Court that at his instance, the case was sent for further investigation by the Learned CJM, Gomati Judicial District, Udaipur.

11. Learned Counsel again drawn the attention of the Court referring the order dated 16.07.2008 passed by Hon'ble Supreme Court in **Arti Rani @ Pinki Devi & Anr. Vs. Dharmendra Kumar Gupta** reported in **2008 (9) SCC 353** and submitted that the Hon'ble Apex Court considered the submission of the wife-petitioner in that case. Similarly, in another case decided on 26.02.2001 in **Sumita Singh Vs. Kumar Sanjay & Anr.** reported in **2001 (5) SCC 667**, Hon'ble the Apex Court also considered the transfer petition filed by the wife-petitioner. But, here in the case at hand, the transfer petition is filed by the alleged husband and the respondent No.1 is the wife of the petitioner who is denying his marriage with her and he is a doctor by profession and if at this stage the case is transferred then the respondent would be prejudiced.

12. I have heard both the sides at length and perused the petition filed by the petitioner and the objection submitted

on behalf of the respondents and also gone through the documents relied upon by both the parties. It is the admitted position that the respondent No.1 is presently staying at Agartala for last few months. It is also the admitted position that the respondent No.1 is the permanent resident of Udaipur because in all the documents relied upon by the petitioner her address has been shown at Udaipur.

13. Learned Counsel for the respondent OP in course of hearing did not dispute that fact rather he admitted the same. But relying upon the judgment of the Hon'ble Apex Court he tried to draw the attention of the Court that the case will be heard where the wife resides, may be for temporary period. But, after going through the documents relied upon by the parties it appears that there is still a criminal case pending against the petitioner filed by the present respondent No.1 which is pending for disposal before the Court at Udaipur. The permanent resident of the respondent No.1 is also at Udaipur. Learned Counsel for the respondent OP at the time of hearing failed to satisfy this Court that if the case is transferred at Udaipur in that case she may face some bad consequences or inconvenience or there will be inconvenience on her part to run the case staying at Udaipur.

14. The present petitioner is also residing at Udaipur and surveying as a doctor there. For the interest of public, his service may be required at Udaipur and in that case it would be

inconvenient if the case remains at Family Court, Agartala. So, after hearing both the sides and after going through the petition, objection and the documents relied upon by the petitioner, it appears to me that the respondent OP has failed to rebut the claim of the present petitioner showing any cogent materials to dismiss the application filed by the petitioner regarding transfer of case from Agartala to Udaipur.

15. The citations relied upon by Learned Counsel for the respondent No.1 although stands in favour of the wife-petitioner but in those cases argument was made on behalf of the wife-petitioner about her inconvenience to run the proceeding to the respective places. But, here in the case at hand, at the time of hearing no such grounds have been raised by Learned Counsel for the respondent No.1 that the respondent No.1 would be seriously prejudiced if the case is transferred. So, in absence of such materials this Court is not in a position to disallow the application filed by the petitioner.

Accordingly, the petition filed by the present petitioner under Section 447 of BNSS is hereby allowed. The criminal case bearing No.Crl. Misc.530 of 2024 along with Misc.(Int) 532 of 2024 pending before the Court of Learned Addl. Judge, Family Court, Agartala be transferred to Learned Judge, Family Court, Udaipur. Learned Addl. Judge, Family Court, Agartala be asked to transfer the aforesaid case to the Court of Learned Judge, Family Court, Udaipur on or before

02.11.2025 for disposal in accordance with law. Both the parties accordingly be asked to appear before the Court of Learned Judge, Family Court, Udaipur on 02.11.2025.

With this observation, the instant transfer petition stands disposed of. It is made clear that nothing is discussed about merit of the case regarding allegation and counter allegation of the parties. Simply the order for transfer of the case is passed.

A copy of this order be transmitted to the Court of Learned Addl. Judge, Family Court, Agartala for immediate compliance and also a copy of this order be communicated to Learned Judge, Family Court, Udaipur for information. Further supply a copy of this order to the Learned Counsels of both the parties for information and necessary action, free of cost.

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

JUDGE

Amrita

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