

29.07.2026

Serial no. 43

Court no. 9

(S. A.)

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction
Appellate Side

C.R.R. No. 273 of 2025

In the matter of : **Sheela Pokhrel**

... .. Petitioner

Mr. Jaydeep Kanta Bowmik, Advocate

Mr. Sayantan Bhowmik, Advocate

Mr. Shubham Kumar, Advocate

Ms. Jasmin Haque, Advocate

... .. For the Petitioner

Mr. Mayank Bhandari, Advocate

Mr. Rajan Raj, Advcoate

... .. for the O.P.

1. This is an application under Section 407 of the Criminal Procedure Code filed by the present petitioner. By filing the instant application, the petitioner prays for transfer of case under Section 12 of the Protection of Women from Domestic Violence Act, 2005 being the Misc. Case No. 38 of 2023 from the Court of learned Judicial Magistrate at Kalimpong to the Court of learned Additional Chief Judicial Magistrate, Siliguri.

2. It has been pleaded that the petitioner happens to be a resident of the district of Darjeeling. While residing at her original residence, the petitioner filed an application under Section 12 of the Act of 2005, which is pending before learned Judicial Magistrate at Kalimpong. It has also been submitted by learned Advocate for the petitioner that presently the petitioner has been residing in a rented accommodation at Siliguri for the purpose of her medical treatment. It becomes very difficult for the petitioner to attend Court at Kalimpong from Siliguri.

3. In such conspectus, the petitioner has come up with the instant application seeking transfer of Misc. Case No. 38 of 2023 from the Court of learned Judicial Magistrate at Kalimpong to the Court of learned Additional Chief Judicial Magistrate, Siliguri.

4. On the other hand, it is submitted by the learned Advocate for the private opposite parties that the petitioner, in fact, happens to be a resident of Kalimpong. Earlier, Kalimpong was a part of the District-Darjeeling. After bifurcation of the district, the permanent residence of the petitioner falls under the district of Kalimpong. He opposes the prayer in respect of transfer of the case.

5. From the materials placed before this Court, it transpires that the petitioner is a resident of Lower Lolay, Palla, Khasmahal within the district of Darjeeling, which actually falls under the district of Kalimpong.

6. The petitioner filed an application under Section 12 of the Act of 2005 against her husband i.e. opposite parties, which was registered as Misc. Case No. 38 of 2023. Such case was initially filed by the learned Additional Chief Judicial Magistrate at Kalimpong, which was subsequently transferred to the Court of learned Judicial Magistrate, Kalimpong for disposal. The Court is informed that evidence on behalf of the petitioner has started. There were disputes between the parties whether such evidence has been closed or not. In any case, trial of the case has already commenced.

7. Moreover, the petitioner has sought transfer of the Misc. Case No. 38 of 2023 from the Court of learned Judicial Magistrate at Kalimpong to the Court of learned Additional Chief Judicial Magistrate at Siliguri. It has been pleaded that the petitioner has presently been residing at Siliguri in a rented accommodation for the purpose of her treatment, she has no income of her own and she is totally dependent upon the private opposite party for

maintenance. The permanent residence or the parental house of the petitioner also falls within the district of Kalimpong. Merely, on the ground that the petitioner has been presently residing at a place for the purpose of her medical treatment cannot be the ground for transfer of a criminal proceeding from one district to the other.

8. In such circumstances, I find no merit in the petition.

9. The prayer of the petitioner for transfer of Misc. Case No. 38 of 2023 stands rejected.

10. C.R.R. No. 273 of 2025 is disposed of.

(Md. Shabbar Rashidi, J.)