

Party Name : ANTARA NANDI Vs SRI RUPAK KUMAR ACHARJEE

THE HONBLE MR JUSTICE U. B. SAHA

The instant application is filed by the petitioner-wife for withdrawal and transfer of the case being T.S.(Divorce) 46 of 2014 which was filed by the husband-respondent under Section 13(1)(ia) of the Hindu Marriage Act, 1955 from the court of learned Judge, Family Court, Udaipur, Gomati, Tripura to the court of learned Judge, Family Court, West Tripura, Agartala. Heard Ms. K. Roy, learned counsel for the petitioner as well as Mr. J. Majumder, learned counsel for the respondent. The case of the petitioner is that after the marriage both the petitioner and the respondent started living together in the house of the respondent at Rajarbagh, Udaipur, and were leading their conjugal life happily for about few months and out of their wedlock, a male child was born on 06.11.2013. After few months of their marriage the respondent and his family members started torture upon the petitioner on the demand of dowry. Initially the petitioner bore all tortures of the respondent and his family members but ultimately she had to leave her matrimonial house and lodge a complaint against the respondent and his family members. It is also stated that the respondent filed one

application for dissolution of marriage by a decree of divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955. As the petitioner is at present residing in her paternal house at Indranagar, Agartala with her small baby of one year old and not in a position to attend the court of learned Judge, Family Court, Udaipur, Gomati, she has preferred the instant petition under Section 24 of the Code of Civil Procedure for withdrawing the aforesaid divorce suit from the file of learned Judge, Family Court, Udaipur, Gomati and transfer the same to the court of learned Judge, Family Court, Agartala, West Tripura in the interest of justice.

This petition of the petitioner is challenged by the respondent on the ground that on earlier occasion when the respondent filed one suit being T.S.(RCR) 01 of 2014 she has contested the said suit though ultimately the said suit was withdrawn by the respondent. It is also stated that the petitioner herself filed some criminal cases against the respondent and his family at Udaipur and, therefore, it would not be proper to transfer the case from the court of learned Judge, Family Court, Udaipur, Gomati to the learned Judge, Family Court, Agartala, West Tripura. It is the further case of the respondent that the petitioner suppressed certain facts in her petition.

The divorce suit is filed by the respondent husband against the petitioner wife . The Apex Court in **Sumita Singh v. Kumar Sanjay** reported in **AIR 2002 SC 396**, specifically stated that in a matrimonial proceeding it is the wife's convenience that must therefore be looked at. In the instant case, the petitioner wife is not in a position to attend the court at

Udaipur with her one year old baby more so, when the husband is not providing any maintenance to her as well as to her one year old baby.

The circumstances indicated above are sufficient to withdraw the divorce suit filed by the respondent from the file of learned Judge, Family Court, Udaipur, Gomati and transfer the same to the court of learned Judge, Family Court, Agartala, West Tripura.

Accordingly, the Title Suit (Divorce) 46 of 2014 pending before the learned Judge, Family Court, Udaipur, Gomati shall stand transferred to the court of learned Judge, Family Court, Agartala, West Tripura who shall hear the said suit after providing them proper notice for appearance in accordance with law for the interest of justice.

The learned Judge, Family Court , Udaipur, Gomati shall send the record of the aforesaid suit to the court of learned Judge, Family Court, Agartala, West Tripura.

Ordered accordingly.

No order as to cost.