

18.06.2019
Ct. No. 2
Sl.No.7
skc

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

C.R.R. 20 of 2019

**Pradip Kumar Ganguly
Vs.
The State of West Bengal & Anr.**

Mr. Debajit Kundu ... for the petitioner

Mr. Momenur Rahaman
... for the respondent nos.2 & 3

Learned counsel for the petitioner seeks leave to make formal amendment in the cause title of the application.

Leave sought for is granted.

Let such amendment/correction be made here and now.

By the instant application under section 407 read with section 401 of the Code of Criminal Procedure, the petitioner herein who is the father of the opposite party nos.2 and 3, both minors represented by their natural guardian/mother, has sought for transfer of ACM Case No. 85 of 2014 arising out of an application under section 125 of the Code of Criminal Procedure from the court of Additional Chief Judicial Magistrate, Alipore to the court of Chief Judicial Magistrate, Jalpaiguri.

Learned counsel for the petitioner submits that the

petitioner is suffering from various ailments such as diabetes and hypertension. So he has been advised by his doctor to avoid travelling. The petitioner is residing at Bhaktinagar in the district of Jalpaiguri and his father is a senior citizen being bedridden, there being none to look after him. For the aforesaid reasons it is difficult for the petitioner to travel all the way to Kolkata from Jalpaiguri to attend the Court proceedings at Alipore Court. A medical certificate has been relied upon in support of the contention that the petitioner is suffering from diabetes.

Learned counsel for the opposite party nos.2 and 3 invited the attention of this Court to the fact that the two minor sons of the petitioner are school going children and their mother with whom they are residing is working in Kolkata. It is contended that there is a divorce case filed by the wife which is also pending in Alipore Court before the Additional District and Sessions Judge, 4th Court, Alipore. Therefore, transfer of the case from Alipore to Jalpaiguri will cause hardship to the mother of the opposite party nos. 2 and 3 as there is none to look after the aforesaid minor children.

I have considered the submissions with reference to the facts and circumstances of the case. Admittedly, the opposite party nos. 2 and 3, the two minor sons of the

petitioner herein, are residing in Kolkata with their mother. It is also not in dispute that the mother of the opposite party nos. 2 and 3 has a job in Kolkata where she is residing with her two children. A proceeding under Section 125 Cr.P.C. should be pursued at the convenient situs as chosen by the applicant of the said proceeding. In the case in hand, the opposite party nos. 2 and 3 the applicants of the said proceeding are two minor children represented by their mother who is residing in Kolkata with her two children who are studying there. From the medical certificate produced it cannot be said that the petitioner is suffering from any serious ailment in consequence of which it would not be possible for him to attend the court proceedings in Alipore Court.

For the reasons aforesaid, I am not inclined to allow the prayer of the petitioner for transfer of the case from the court at Alipore to the court at Jalpaiguri. However, in the interest of justice I think that it would be appropriate to expedite the hearing of the aforesaid case.

Additional Chief Judicial Magistrate, Alipore shall expedite the hearing of ACM case No. 85 of 2014 and dispose of the same in accordance with law preferably within four months from the date of communication of this order without granting unnecessary adjournment to either of the parties.

The application being CRR 20 of 2019 is thus disposed

of.

Let a copy of this order be communicated forthwith to the Additional Chief Judicial Magistrate, Alipore for information and necessary action.

Urgent Photostat certified copy of this order, if applied for, be given to the applicant upon compliance of requisite formalities.

(Asha Arora, J.)

