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C.O 5 of 2021

Ct.9.

Mousumi Sarkar nee Ghosh vs. Indranil Sarkar

Mr. A.K. Das

..For the petitioner.

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Affidavit of service filed reflects the service has been effected on the respondent husband but none has entered appearance.

In this application the petitioner wife is seeking transfer of Matrimonial Suit No. 19 of 2019 pending before the learned Additional District Judge, 3rd Court, Suri at Birbhum to the court of the learned District Judge, Asansol on the contention that the petitioner was subjected to cruelty by her husband and in laws in her matrimonial home on demand of dowry. An attempt was made to kill her by pouring Kerosene Oil and even mercilessly beaten her by kicking in her abdomen, and untimely she was driven out from the matrimonial home on 11.11.2011. So she has to take shelter in her parents' house and was compelled to lodge a complaint with the Hirapur Police Station being no. 211 of 2011 dated 16.11.2011 u/s. 498A/307/34 IPC. Since then she is living in her paternal home and her father being an aged retired person suffering from various ailments and has to spend a lot for his own treatment and the petitioner does not have sufficient means for her maintenance, she filed an application u/s 125 Cr.P.C in the court of the learned ACJM, Asansol which has been registered as Misc. Case No. 19 of 2021.

The opposite party husband has also filed a matrimonial suit being Matrimonial Suit No. 19 of 2019 u/s. 27 of the Special Marriage Act, 1954 for dissolution of marriage in the court of the learned District Judge, Suri at Birbhum. The petitioner wife contested the matrimonial suit by filing written statement denying all material allegations made in the complaint.

The petitioner is residing at her parental home at B.B.D Pally in Asansol in the jurisdiction of District - Burdwan West and she has to travel 4 to 5 hours for one way journey and required to stay at night at Birbhum to attend the court in the said proceeding.

It is pointed out by the learned counsel for the petitioner that the opposite party and his family members and associates are very influential persons in the locality and the petitioner is apprehending bodily injury, and as such, it is impossible for her to attend in the court of the learned Additional District Judge, 3rd Court, Suri at Birbhum where the case is pending.

That apart, she resides with her aged ailing father and mother and there is none other to look after them and there is no one to support her to undertake journey for a long distance and stay alone at Birbhum. Accordingly, the petitioner wife has sought for transfer of the case.

None appears on behalf of the opposite party husband despite service of notice and further considering that two cases are pending before the Additional Chief Judicial Magistrate, Asansol, wherein the opposite party

husband has to attend to face the trial, it would be just and convenient for the petitioner to attend the court at Asansol if the case is withdrawn from the file of the Additional District Judge, Suri, Birbhum.

Accordingly, Matrimonial Suit No. 19 of 2019 be withdrawn from the file of learned Additional District Judge 3rd Court, Suri at Birbhum and be transferred to the file of learned District Judge, Asansol.

On receipt of the case record, the learned District Judge, Asansol would be at liberty to try the case by himself or to transfer in turn to any competent Additional District Judge for trial and disposal.

Let a copy of this order be communicated to both the courts for information and doing needful.

Accordingly, the application being C.O. 5 of 2021 is disposed of.

(Shivakant Prasad, J.)