

07.04.2021

Sl. No. 22

Srimanta

Ct. No.-30

D/L

**CRR/254/2021
(Via Video Conference)**

In Re : An application under Section 482 of the Code of Criminal Procedure, 1973.

In the matter of : Mintu Kundu @ Minurani Kundu & Anr.

... petitioner.

Mr. Raj Kumar Gupta, Adv. ... for the petitioner.

Mrs. Manisha Sharma, Adv. ...for the State.

Mr. Amit Ranjan Pati, Adv.,
Mr. Ashok Halder, Adv. ...for the respondent no. 1.

Affidavit-of-service filed in Court today be kept with the record.

Septuagenarian parents-in-law has filed the instant application praying for transfer of a case under Section 12 read with other coordinate provisions of the Protection of Women from Domestic Violence Act, 2005 (hereafter described as the said Act), pending before the Learned Judicial Magistrate, 2nd Court at Balurghat to a competent Court at Barasat in the district of North 24-Parganas.

It is stated by the petitioners that the petitioner no. 1 is aged about 72 years and petitioner no. 2 is presently aged about 77 years. They are made respondents in Criminal Misc. Case No. 18 of 2020 under Section 12 of the said Act. It is also stated by the petitioners that the husband of the opposite party no. 1 has filed a suit for divorce being Matrimonial Suit No. 142 of 2019, a proceeding in custody of

the minor son of the opposite party no. 1 and her husband being Misc. Case No. 123 of 2020 at Barasat. The opposite party no. 1 has also filed a written complaint under Section 498A of the Indian Penal Code at Baghuihati Police Station within the jurisdiction of Barasat Court. According to the petitioners, the opposite party no. 1 is in possession of the entire house owned by the petitioner no. 2 at Balurghat. She has no right to stay in the said house. The petitioners are not even allowed to enter into the said house which prompted the petitioner no. 2 to file a writ petition being W.P.A. 8815 of 2020. The said writ petition is pending before a Coordinate Bench.

It is also submitted on behalf of the opposite party no. 1 that her paternal home is situated at Balurghat. She has a four years old child who reads in a school. If the case under the said Act is transferred to Barasat, the petitioner will face financial inconvenience, physical discomfort and her minor child will have no other person to look after him.

In transfer petition, generally convenience of the wife gets precedents over the convenience of the husband and other matrimonial relations in matrimonial disputes and other related cases.

However, in the instant case the fact situation is different. I have already recorded that the petitioners are the septuagenarian parents-in-laws. They have their house at Balurghat but they cannot enter into their own house being resisted by the opposite party no. 1. The opposite party no. 1 has her alternative accommodation at Balurghat in her paternal home but she does not stay at her paternal home. Considering the inconvenience of the petitioners which they may suffer to contest the case under the said Act at

Balurghat, Misc. Case No. 18 of 2020 under Section 12 of the said Act read with other coordinate provisions pending before the Learned Judicial Magistrate, 2nd Court at Balurghat, Dakshin Dinajpur be transferred to the Court of the Learned Chief Judicial Magistrate at Barasat.

The petitioners are directed to bear the travelling expenses of the opposite party no. 1 from Balurghat to Barasat on the dates of hearing of the above-mentioned Misc. Case.

The instant criminal revision is, thus, **disposed of** on contest without costs.

(Bibek Chaudhuri, J.)