

S/L 12.
22.03.2021
S.D.

**C.O. 238 of 2021
(Via Video Conference)**

Smt. Tania Das (Mitra)

Vs.

**Sri Subir Kanti Das
(Via Video Conference)**

Ms. Rajlakshmi Ghatak

...For the Petitioner.

Mr. Tanmoy Mukherjee

Mr. Souvik Das

.....For the O.P.

In this application, the petitioner/wife has sought for transfer of Matrimonial Suit No. 3285 of 2019 now pending in the 15th Court of learned Additional District and Sessions Judge, South 24-Parganas at Alipore to the Court of learned District Judge, North 24-Parganas at Barasat *inter alia* on the grounds that the petitioner was subjected to torture after the marriage for dowry and for other flimsy issues, hence finding no alternative, she initiated a criminal proceeding under Section 498A of the Indian Penal Code against her husband and his relatives and also initiated proceeding under Protection of Women from Domestic Violence Act, 2005 and case under Section 125 of the Code of Criminal Procedure, but with the intervention of common friends and relatives,

the petitioner has withdrawn the criminal cases and had agreed to take steps for getting the marriage dissolved by mutual consent which has been filed by the opposite party under the provision of Section 27(1)(b)(d) of the Special Marriage Act, 1954 now pending in the Court of learned District Judge, South 24-Parganas being the Matrimonial Suit No. 3285 of 2019 for dissolution of marriage by a decree of divorce. It is also submitted that the opposite party had filed an application under Section 24 of the Code of Civil Procedure for transfer of the Matrimonial Suit No. 3285 of 2019 pending in the Court of 15th Additional District and Sessions Judge, South 24-Parganas, Alipore to any other Additional District Judge, at Alipore on the ground that the Court was lying vacant and the said application was registered as Misc. Case No. 7 of 2021 pending in the Court of District Judge, 24 Parganas in which the petitioner had received a notice who is now permanently staying at her parents' house at Narayantala West, Deshbandhunagar, Baguiati who has no source of income and that the opposite party is not paying any maintenance. It is pointed out that the opposite party duped the petitioner to withdraw the proceeding initiated by the petitioner for maintenance. Now, it is difficult for her to attend the learned Court of Additional

District Judge, Alipore to contest the matrimonial suit. That apart, most of the witnesses relating to the case to be produced by the petitioner, are residents of Baguiati.

Now it is submitted on behalf of the opposite party/husband that the petitioner has withdrawn the said proceeding under Section 498A IPC, application under Section 12 of the D.V. Act and the Maintenance Case under Section 125 of the Cr.P.C. the petitioner's contention is that the opposite party/husband has duped her in getting the said case withdrawn.

I do not find from the statement in paragraph 4 any reference to the cases which have been withdrawn from the Court of learned Magistrate on the score of settlement between the parties to go for the mutual divorce upon payment of lump-sum amount.

It is pointed out on behalf of the opposite party that the petitioner demanded exorbitant amount for settlement in respect of the mutual divorce, the suit for divorce cannot be disposed of in settlement on mutual consent for a decree of divorce.

However, having heard the learned Advocates for the parties and in consideration of averments made in the application, and the criminal cases having been withdrawn

by the petitioner and for convenience of both the parties, since the Sealdah Court of the Additional District Judge, Sealdah is at the mid-point from the residence of the parties, let the case be transferred to the Additional District Judge, Sealdah.

Accordingly, the case being Matrimonial Suit No. 3285 of 2019 be withdrawn from the file of the Additional District Judge, 15th Court and be transferred to the Court of Additional District Judge, Sealdah which is situated within the same district. The Additional District Judge, Sealdah is requested to expedite the suit as early as possible preferably within six months from the date of receipt of the record.

Accordingly, this application being C.O. 238 of 2021 is disposed of with the above direction.

Let a copy of the order be communicated to the learned Courts.

No order as to costs.

Urgent certified copies of this order, if applied for, be given to the parties upon compliance of the usual formalities.

(Shivakant Prasad, J.)

