

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:
The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 699 of 2020

Sulav Kumar Das
Vs.
Smt. Taposi Das & Anr.

For the Petitioner : Mr. Milan Nandi

Heard on : 03.03.2021

Judgement on : 03.03.2021

Jay Sengupta, J. :

This is an application seeking transfer of a proceeding under Section 125 of the Code from the Court of learned Judicial Magistrate, 2nd Court, Barrackpore, North 24 Parganas to any learned Court of competent jurisdiction at Sealdah, South 24 Parganas.

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner is the husband of the opposite party no.1. The opposite party no.1 had lodged a criminal case at Sinthee Police Station and accordingly, a proceeding has become pending before a learned Court at Sealdah. The petitioner has also filed a matrimonial suit seeking judicial separation before a learned Court at Sealdah. Since both the matters are

pending before respective learned Courts at Sealdah, for mutual convenience the proceeding under Section 125 of the Code may be transferred to any competent learned Court at Sealdah.

I have heard the submissions of the learned Counsel appearing on behalf of the petitioner and have perused the revision petition.

If the cause of action in a criminal case arises at a particular place, the case has to be filed in that jurisdiction. It appears that the opposite party no.1 lodged a First Information Report at Sinthee Police Station because bulk of the cause of action arose under that police station, where the matrimonial home of the opposite party no.1 is situated.

Since it was the prerogative of the petitioner about where he should file the application for judicial separation, he had chosen to file it at Sinthee where he resided.

However, so far as an application under Section 125 of the Code is concerned, it is up to the wife to choose the place where she would file such application out of the many places where law allows her to file her application. It appears that from the cause title that the opposite party no.1 stays at Baranagar, Kolkata, which is under the jurisdiction of the Barrackpore Court. That is why she had filed the application there.

The opposite party no.1 should not be made to travel all the way to Sealdah to prosecute her case under Section 125 of the Code for claiming maintenance allowance, simply because a criminal case between the parties is pending at Sealdah where the cause of action for that case arose and another civil suit has been filed by the husband at the said place.

In view of the above, I do not find any merit in this revisional application. Accordingly, the same is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this judgment may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)