

18.11.2021
Item No.13
Ct. No.7
CHC
(disposed of)

**C.O.1382 of 2021
(Physical Hearing)**

**Sweta Choudhury
Vs.
Anand Sureka**

Mr. Saidur Rahaman
...for the petitioner

Mr. Saptansu Basu, Sr. Advocate
Mr. Amritam Mandal,
Ms. Ananya Chakraborty
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial Suit No.29 of 2019 from the court of learned Additional District Judge, Chanchal, Malda to the court of learned District Judge, North 24 Parganas, Barasat.

At the very threshold of this case, learned advocate Mr. Saptansu Basu, learned Senior Advocate being led by Mr. Amritam Mandal strongly opposes the prayer for proposed transfer submitting that there has been material suppression of facts, and in support of which the opposite party files an affidavit to that effect. The same be taken on record upon serving a serve copy of the same to the learned advocate for the petitioner.

Admittedly, the marriage was solemnized on 25th January, 2016 at Katihar, and subsequently on 16th December, 2016, it was registered under the provisions of Special Marriage Act. The ancestral house of opposite party/husband is at Harishchandrapur within Chanchal, District Malda.

Mr. Saidur Rahaman, learned advocate for the petitioner/wife submits that the suit for divorce was filed by the opposite party/husband in 2019 at Chanchal Court, Malda. The petitioner/wife has been staying apart from her husband, since 2018, and now has been residing in her parental house at Dum Dum. Father of the petitioner has already left the world putting the petitioner at the mercy of her mother.

It is contended by the learned advocate for the petitioner that it would be very difficult for the wife/petitioner to participate in the hearing process of the Matrimonial Suit at Chanchal Court after undertaking a journey of 400 K.m. away from her parental house at DumDum. More so, huge expenses are involved to undertake journey, and there is no other male member to accompany her, while undertaking such journey. Petitioner has already filed an application seeking *alimony pendente lite* in connection with Matrimonial Suit in 2019, but till date such application, though registered as Misc.Case

No.3 of 2019, has not yet been disposed of. At the moment, petitioner is submitted to be having no existing income. In such context, the petitioner/wife has proposed for transferring the case from the place referred above to the court as already mentioned.

Mr. Basu, learned Senior Advocate being led by Mr. Mandal advertng to relevant paragraphs of the affidavit submits that presently the petitioner/wife has been staying at Siliguri in a joint flat, owned in her name with her husband, wherefrom the opposite party/husband has already been driven out, and as such the opposite party/husband has been made to stay in his ancestral house at Chanchal. The opposite party/husband is submitted to be a qualified Chartered Accountant having his establishment at Siliguri.

It is also contended that by the opposite party that petitioner/wife has previously lodged 3/ 4 complaints against the husband, which have been registered at Bhaktinagar Police Station, amenable under the jurisdiction of Jalpaiguri Magistrate Court.

Further contention is raised that the wife/petitioner has similarly lodged a criminal case under Section 498A I.P.C. against opposite party/husband and the same is pending in the court of learned Chief Judicial Magistrate, Jalpaiguri.

Apart from this, petitioner has also approached the Family Counselling Centre of Siliguri seeking redressal for her matrimonial differences with her husband.

Taking such grounds, Mr. Basu submits that since there has been complete suppression of material facts, necessarily to be dealt with while making consideration of the prayer for transfer under Section 24 of the Code of Civil Procedure, the instant transfer application should be dismissed.

In reply, Mr. Rahaman, learned advocate representing the petitioner submits that the petitioner/wife denies such allegations raised in the affidavit, though he has not been properly supplied with necessary information.

Allegations, thus, raised in the affidavit against the petitioner is thus strongly denied by the wife.

When there is apparent existence of multiple cases, brought at the instance of the wife/petitioner against opposite party/husband, and all such cases were lodged at Bhaktinagar Police Station, it is presumable that there is no necessity of inviting any reply from the petitioner/wife, as against the affidavit furnished by the opposite party/husband.

Apart from raising such objections Mr. Basu also contends that wife/petitioner is having some

independent income from her several businesses including private tuition.

Having considered the submission of both sides and upon seeing apparent existence of multiple cases, brought against the opposite party/husband at the instance of the petitioner/wife and that too at Bhaktinagar Police Station, amenable to the jurisdiction of Jalpaiguri Court, and bearing in mind the comparative harassment/advantages of both the parties, it is desirable that the pending Matrimonial case should be transferred to the court of Jalpaiguri from Chanchal Court, where it is expected to curtail the comparative harassment of either of the parties to this case to a considerable degree, and that would not cause any prejudice to any of them.

Accordingly the transfer application is disposed of directing the learned Additional District Judge, Chanchal to transfer Matrimonial Suit No.29 of 2019 to the court of learned Additional District Judge, 1st Court, Jalpaiguri within a fortnight from the date of communication of this order to the learned court below.

Both the parties are directed to ensure their appearance before the transferee Court i.e. the learned Additional District Judge, 1st Court, at Jalpaiguri on 15th December, 2021.

Learned Additional District Judge, 1st Court, Jalpaiguri, accordingly is directed to proceed with the case upon receipt of the case records from Chanchal Court.

Since expense is necessary to participate in the hearing process of Jalpaiguri Court by petitioner and since an application for *alimony pendente lite* is known to be pending in connection with the present Matrimonial Suit, the transferee Court is directed to dispose of the same providing sufficient opportunities of hearing to either of the parties to this case, but without granting unnecessary adjournment, unless it is extremely necessary, so that the Matrimonial Suit may be disposed of at an early date.

The transferee court is also directed to decide the *alimony pendente lite* application expeditiously as possible preferably within a period of three months from the date of receipt of case record from Transferor Court.

With the above observations/directions, the transfer application stands disposed of.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Subhasis Dasgupta, J.)