

11 13.12.
AGM 2021
RKB
Ct
07

C.O. 1988 of 2021

Tanusree Das Nee Roy
Versus
Ranjan Das

(Via Video conference)

Mr. Niladri Sekhar Ghosh,
Ms. Sompurna Chatterjee.
... for the petitioner

Mr. Siva Prosad Ghose.
... for the opposite party.

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of the Matrimonial Suit No. 416(A) of 2021 from the Court of learned Additional District Judge, Barrackpore, North 24 Parganas to the Court of learned Additional District Judge, Arambagh, Hooghly.

Mr. Niladri Sekhar Ghosh, learned advocate for the petitioner/wife submits that after being deserted by her husband, the petitioner/wife has been staying in her parental house at Arambagh in a most neglected condition. In the meantime, she has invited a maintenance case under Section 125 of the Code of Criminal Procedure, before the Court of Magistrate at Barrackpore. An execution proceeding is pending against the husband regarding the interim maintenance granted in favour of the petitioner/wife.

As regards the grounds set out in support of the proposed transfer application, financial constraints,

distances to be covered and the harassment are grossly focused.

Learned advocate for the petitioner further adverting to a document collecting from the official web-site of the Calcutta High Court submits a transfer application has already been filed before this court for transferring the pending maintenance case under Section 125 Cr.P.C. to any other suitable place where both the parties can effectively participate in the maintenance proceeding.

The petitioner wife also instituted criminal case under Section 498A/406/34 I.P.C., which has ended in acquittal after a full trial.

Learned advocate for the petitioner further contends that a female child was born out of the wedlock of the parties, who is now eight years old, and perusing study in school at Arambagh. In such context, learned advocate for the petitioner submits that it would be very difficult for the petitioner/wife to undertake journey simply in the interest of participating in the hearing process of matrimonial suit pending against her at Barrackpore, putting her only daughter in much distress.

Per contra, Mr. Siva Prosad Ghose, representing opposite party/husband submits that opposite party/husband is a Government employee, now posted as Accountant being attached with Land and

Land Reforms Department. The opposite party/husband has to look after his ailing parents. Challenging the proposed transfer application, learned advocate for the opposite party submits that it is a very harrasive application, so that the husband is put to face unnecessary hardship to take part in the hearing process of the matrimonial suit, in the event of the case being transferred to the proposed Court. Focussing the acquittal judgement of criminal case, learned advocate for the opposite party/husband submits that the opposite party/husband after a full trial has been honourably acquitted for want of evidence being gathered against him.

In a case of this nature, the comparative advantages, disadvantages and harassment of the parties are of highest significance. The husband being attached with Government service, that must be taken in view, while making consideration of the transfer application.

Having considered the rival submissions of both sides, if the pending Matrimonial suit is transferred to Chandannagore Court within the district Hooghly, which is almost in between Arambagh and Barrackpore, as regards the distance to be covered by either of the parties to the case, and where the comparative harassment of the parties may be

curtailed to a considerable degree, there will be no prejudice caused to either of the parties to this case.

Chandannagore Court is situated at a convenient location having availability of several conveyances to reach over there by either of the parties to this case.

The transfer application is thus disposed of directing the learned Additional District Judge, Barrackpore, North 24 Parganas to transfer the Matrimonial Suit No. 416(A) of 2021 to the Court of learned Additional District Judge, First Court, Chandannagore, District Hooghly within a fortnight from the date of communication of this order.

Both the parties are directed to ensure their respective appearance before the transferee Court on 18.1.2022.

With this observation and direction, the transfer application stands disposed of.

Urgent certified copy of this order and judgment, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with the all necessary formalities.

(Subhasis Dasgupta, J)