

02.12.2021
Item No.6
Ct. No.7
CHC

**C.O. 1995 of 2021
(Via Video Conference)**

**Smt. Payel Sarkar
Vs.
Sri. Anirban Basu**

Mr. Sharanya Chatterjee,
Mr. Nepesh Majhi
...for the petitioner

Mr. Anirban Pramanick,
Ms. Subhasree Dey
...for the opposite party

This is a transfer application under Section 24 of the Code of Civil Procedure, seeking transfer of a Matrimonial Suit No.449 of 2021, from the court of learned Additional District Judge, Fast Track Court, Serampore to the court of learned Additional District Judge, at Barrackpore Court.

Mr. Sharanya Chatterjee, learned advocate for the petitioner/wife submits that after being deserted by the opposite party/husband, under a compelling circumstances she has been staying in her parental house at Belgharia. There are two other criminal cases instituted by the wife/petitioner against her husband, which are under Section 498A I.P.C. and allied sections and a separate D.V. Act proceeding.

It is contended by the learned advocate for the petitioner that petitioner/wife would be most inconvenient to participate in the hearing process of pending Matrimonial Suit at Serampore undertaking a journey and also incurring expenses necessary therefor.

Upon focussing the harassment, hardship of the petitioner together with the pendency of multiple criminal cases brought against the opposite party/husband, now pending at Barrackpore Court, learned advocate for the petitioner has proposed the transfer from Serampore Court to Barrackpore Court.

Per contra, at the very threshold, Mr. Anirban Pramanick, learned advocate representing the opposite party/husband submits that the instant transfer application should be dismissed right now, as no relevant grounds have been made out in the transfer application.

It is also contended by the learned advocate for the opposite party/husband that previously, the wife instituted a Matrimonial Suit for divorce, which has already been dismissed, and due to the matrimonial differences, the opposite party had to leave his job. Since the opposite party has to look after his parents, it would be also difficult on the part of the husband to participate in the hearing process of the Matrimonial Suit, in the event of the Matrimonial Suit being

transferred to Barrackpore Court from Serampore Court.

Comparative advantages, disadvantages and harassment of the parties are of highest significance while making consideration of the transfer application.

Indisputably, the wife has now being staying in her parental house at Belgharia. The petitioner intends to transfer the matrimonial proceeding pending at Serampore Court to the Barrackpore Court expressing her inconvenience and harassment, which are available from paragraph-5 onwards of Transfer Application.

The opposite party/husband also contends the harassment in the event of the case being transferred to the proposed court.

As regards previous dismissal of the Matrimonial Suit, it is a subject-matter of consideration by the trial court, which is left to be considered in the interest of adjudication, if any, under the provisions of the law.

Barrackpore Court is located at a site, which is intervened by a river from Serampore, where the Matrimonial Suit is pending. Communication facility is there for availability of several conveyances including public water transport services.

Upon considering the comparative advantages, disadvantages and harassment of the parties, the Court is of the view that there will be no prejudice

caused to the opposite party/husband, if the case is transferred to Barrackpore Court from Serampore Court, keeping in view two other criminal cases pending against the opposite party/husband at Barrackpore Court.

The transfer application is thus disposed of directing the learned Additional District Judge, Fast Track Court at Serampore to transfer Matrimonial Suit No.449 of 2021 to the learned Additional District Judge, Fast Track Court-I, at Barrackpore within a fortnight from the date of communication of this order.

Both the parties are directed to ensure their respective appearance before the learned transferee court on 23rd December, 2021.

It is, however, clarified that this order is without prejudice to the rights and contentions of the parties, which are subject-matter of consideration of the trial pertaining to the Matrimonial Suit.

The possibility of reunion of the conjugal life of fighting couple may also be explored in the meantime, and learned advocate for both the parties are requested to impress upon their respective client, so that the matrimonial differences between the parties may reach to a happy end shortly.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as

expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)