

Ct. 06.7
No. 2022
14

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akb

C.O. 138 of 2022

IA No. CAN 1 of 2022

Smt. Monomita Ghosh

-Versus-

Subrata Ghosh

Mr. Prantick Ghosh

...For the Petitioner

Ms. Anita Khatri

Mr. Sankar Sarkar

...For the Opposite Party

Re.: IA No. CAN 1 of 2022

The application, being IA No. 1 of 2022 has been filed by the petitioner seeking appropriate direction that the settlement arrived at before the learned Mediator is not binding upon the parties.

At this stage, I do not find any justification to interfere with the settlement arrived at before the learned Mediator appointed by this Court.

In view of the above, the application stands dismissed.

Now, the revision arising out of an application under Section 24 of the Code of Civil Procedure is taken up for hearing.

I have heard learned Counsels appearing for the parties.

It is stated by the petitioner that her marriage with the opposite party was solemnized on November 21, 2016 according to Hindu rites and customs and their marriage was duly consummated. Out of their wedlock, no child was born.

The petitioner states that soon after her marriage, the opposite party subjected her to cruelty and ultimately she was driven out of her matrimonial home on April 24, 2017. To sustain her livelihood the petitioner filed a maintenance case, being No. 248 of 2017 under Section 125 of the Criminal Procedure Code and in this proceeding the learned Judicial Magistrate at Barasat directed the opposite party to pay maintenance allowance to her. But on the failure on the part of the opposite party to pay the arrear maintenance allowance, the petitioner has brought a maintenance execution case, being No. 239 of 2018 in a Court of learned Judicial Magistrate at Barasat.

On the allegation of torture upon her, the petitioner lodged an FIR at Habra Police Station and the FIR lodged by her was registered at Habra Police Station Case No. 319 of 2017 under Sections 498A/406 of the Indian Penal Code and this case is pending in the Court of the learned Chief Judicial Magistrate at Barasat.

The petitioner came to know that the opposite party filed a matrimonial suit, being No. 394 of 2020 under Section 9 of the Hindu Marriage Act against her seeking restitution of conjugal rights in the Court of the learned Additional District Judge at Bongaon.

The petitioner submits that all the cases brought by her are pending in the concerned Courts at Barasat. The petitioner further submits that it will be hardship for her to attend the matrimonial proceeding at Bongaon Court. Hence, the prayer.

What I find from the materials on record, one maintenance case brought by the petitioner is pending in a Court of learned Judicial Magistrate at Barasat. On the failure to pay off the arrear maintenance allowance on the part of the opposite party, one maintenance execution case is pending in the concerned Court of a Judicial Magistrate at Barasat. Besides a criminal case under Section 498A/406 launched by the petitioner is also pending in the Court of learned Chief Judicial Magistrate at Barasat.

It is legal principle enunciated by the Hon'ble Apex Court as well as by this Hon'ble High Court in a number of decisions that inconvenience of the wife should be treated as a prime consideration while disposing of a proceeding under Section 24 of the Code of Civil Procedure.

Having heard the learned Counsels appearing for the parties and considering the balance of convenience and inconvenience of the parties I feel that it will be wise to withdraw the aforesaid matrimonial suit from the Court of the learned Additional District Judge, Bongaon and transfer the suit to the Court of the learned District Judge, North 24-Parganas at Barasat.

In view of the above, the revisional application is allowed.

Let the Matrimonial Suit, being No. 394 of 2020 be withdrawn from the Court of the learned Additional District Judge, Bongaon and the suit be transferred to the Court of the learned District Judge, North 24-Parganas at Barasat for disposal.

Learned District Judge, North 24-Parganas at Barasat may dispose of the suit either himself/herself or transfer the suit to any of the Courts of learned Additional District Judge at the station for disposal.

The learned Additional District Judge, Bongaon is directed to transmit the case record of the matrimonial suit to the transferee Court immediately after receipt of a copy of the order.

With the aforesaid direction, C.O. 138 of 2022 stands disposed of.

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

Let a copy of this order be communicated to both the Courts below for information and compliance.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis upon compliance of all formalities.

(Rabindranath Samanta, J.)