

30.06.2022

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C.O. 279 of 2022

Smt. Anamika Dey (Dutta)

Vs.

Sri Sourav Dey

Mr. Achyut Basu

Ms. Punam Basu ... For the petitioner

Mr. Amit Ranjan Roy ... for the opposite party

Affidavit of service filed by the petitioner be kept on record.

The opposite party files affidavit-in-opposition. Let such affidavit be kept on record.

Learned lawyer appearing for the petitioner submits that the petitioner will not file any affidavit-in-reply.

The revisional application arising out of Section 24 of the Code of Civil Procedure is taken up for hearing.

I have heard learned lawyers appearing for the parties.

It is stated by the petitioner, Smt. Anamika Dey (Dutta) that her marriage with the opposite party, Sri Sourav Dey, was solemnized on 4th February, 2020 according to Hindu rites and customs and their marriage was registered. The petitioner lived with the opposite party as his wife. But, sometime after their marriage, the opposite party subjected the petitioner to cruelty by various means. On the allegation of torture meted out to her, one F.I.R. was lodged at Ausgram Police Station and F.I.R. was registered as Ausgram Police Station Case No.245 of 2021 dated 10th August, 2021 under Sections

498A/323/ 406/506/34 of the Indian Penal Code and under Sections 3/4 of the Dowry Prohibition Act.

It is alleged by the petitioner that because of torture inflicted upon her by the opposite party, she was compelled to leave her matrimonial home and now she is residing at her parental home.

The petitioner states that in order to sustain her livelihood, she has filed a maintenance case being M.R. Case No. 4 of 2022 under Section 125 of the Code of Criminal Procedure and the case is pending in the court of the learned Judicial Magistrate at Nabadwip, Nadia.

The petitioner came to know that the opposite party filed a Matrimonial Suit being No.751 of 2021 in the court of the learned District Judge, Purba Bardhaman and after transfer of the suit, the suit is now pending in the court of the learned Additional District Judge, 1st Court, Burdwan. The distance between the parental home of the petitioner and the court at Burdwan is nearly 65 kilometers. The father of the petitioner is an age-old person and as such she is not in a position to go to the court of Burdwan to attend the matrimonial proceeding.

Learned lawyer appearing for the petitioner by referring to a series of orders passed by the Hon'ble Apex Court in Transfer Petition (C) No.796 of 2003; Transfer Petition (C) No.396 of 2000; Transfer Petition (C) No.5 of 2020, submits that the Hon'ble Apex Court has observed

in all these cases that inconvenience of the wife shall be taken as a prime consideration while disposing of the transfer petition.

The opposite party in his affidavit-in-opposition denies all the allegations as made in the application for transfer of the Matrimonial Suit.

Learned lawyer appearing for the opposite party vehemently submits that merely on the ground that a maintenance case is pending before the court of a learned Judicial Magistrate at Nabadwip, Nadia, a Matrimonial Suit cannot be transferred.

Learned lawyer submits that if the court decides that the Matrimonial Suit should be transferred, the same may be transferred to the court of the learned Additional District Judge at Kalna.

But, what I find, a maintenance case under Section 125 of the Code of Criminal Procedure filed by the petitioner is pending in court of learned Judicial Magistrate at Nabadwip, Nadia.

That being so, the opposite party will have to appear before the court to participate in the hearing of the maintenance proceeding.

Considering the circumstances as narrated in the application, I feel that the petitioner will face inconvenience if she has to travel a long distance to appear before the court at Burdwan to attend the

matrimonial proceeding.

Having heard learned lawyers appearing for the parties and in view of the observations of the Hon'ble Apex Court in the aforesaid transfer petitions, I feel that it will be wise to withdraw the Matrimonial Suit from the concerned court at Burdwan and transfer the suit to the concerned court at Nabadwip, Nadia.

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

Let the Matrimonial Suit being No.751 of 2021 be withdrawn from the court of the learned Additional District Judge, 1st Court at Burdwan and the suit be transferred to the court of the learned Additional District Judge at Nabadwip, Nadia, for disposal.

The learned Additional District Judge, 1st Court at Burdwan is directed to transmit the case records to the learned transferee Court immediately after receipt of the copy of this order.

The department is directed to communicate copy of this order to both the learned Courts below immediately.

With the aforesaid direction, the revisional application (C.O. No.279 of 2022) stands disposed of.

There shall be no order as to costs.

(Rabindranath Samanta, J.)