

Ct. 16.8
No. 2022
14

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akb

C.O. 257 of 2021
Smt. Susmita Mondal
-Versus-
Sri Subrata Mondal

Mr. Sanjib Dan
Mr. Rajarshi Basu **...For the Petitioner**

Mr. C.S. Bag
Mr. Madhusudan Mondal **...For the Opposite Party**

Affidavit-in-reply to the affidavit-in-opposition
filed on behalf of the petitioner be kept on record.

This revisional application under Section 24 of
the Code of Civil Procedure has been filed by the petitioner
seeking transfer of a matrimonial suit from the Court of the
learned Additional District Judge, Raghunathpur, Purulia to
the Court of the learned District Judge, Birbhum at Suri.

Learned Lawyer appearing for the petitioner
submits that the distance between the residence of the
petitioner and the Court of the learned Additional District
Judge, Raghunathpur, Purulia is nearly 150 kms. He further
submits that on a written complaint lodged by his client, one
Parui Police Station Case No. 2 of 2021 dated January 02,
2021 under Sections 498A/307 of the Indian Penal Code and
Section 3 of the Dowry Prohibition Act, has been registered
against the opposite party and this case is now pending in the
Court of the learned Chief Judicial Magistrate, Suri,
Birbhum. Under such circumstances, learned Lawyer
submits that considering the convenience of the petitioner
the matrimonial suit may be transferred to the Court of the
learned District Judge, Birbhum at Suri.

Per contra, learned Lawyer appearing for the
opposite party submits that mother of his client is seriously
ill. He submits that his client has to look after his mother.

He suggests that if the Court desires to transfer the matrimonial suit, the matrimonial suit may be transferred to the Court of the learned District Judge, Paschim Bardhaman at Assansol.

It is stated by the petitioner, Smt. Susmita Mondal that her marriage with the opposite party, Sri Subrata Mondal was solemnized on 1st May, 2014 according to Hindu Rites and Customs. The marriage between them was duly consummated and out of their wedlock, one male child, namely, Siddhartha Mondal was born who is aged about five years. The petitioner complains that the opposite party subjected her to cruelty by various ways. Unable to bear with such torture she had to leave her matrimonial house and started residing at her parental home at Village – Rasaipur, Post Office & Police Station – Parui, District – Birbhum.

The petitioner states that on the allegations of torture meted out to her she lodged an FIR with the Parui Police Station and the said FIR was registered as Parui Police Station Case No. 02 of 2021 dated January 02, 2021 under Sections 498A/307 of the Indian Penal Code read with Section 3 of the Dowry Prohibition Act. This case is now pending in the Court of the learned Chief Judicial Magistrate, Suri.

The petitioner came to know that the opposite party brought a matrimonial suit, being No. 63 of 2020 against her in the Court of the learned Additional District Judge, Raghunathpur, Purulia seeking dissolution of their marriage. The petitioner avers that the distance between her parental home and the Court at Raghunathpur is about 150 kms. It will be hardship for her to travel the long

distance to appear before the Court at Raghunathpur, Purulia, to participate in the matrimonial proceeding. Under such circumstances, the petitioner seeks transfer of the matrimonial suit.

The opposite party in his affidavit-in-opposition however, to some extent admits that the distance between the parental home of the petitioner and the Court at Raghunathpur is more than 220 kms. for up and down journey. However, the opposite party denies the averments and allegations as made in this application and prays for dismissal of the revisional application.

Admittedly, the petitioner was married to the opposite party on 1st May, 2014 and out of their wedlock a male child was born. What I find, under compelling circumstances, the petitioner had to leave her matrimonial home and now she is residing at her parental home at the aforesaid address. From the photocopy of the FIR annexed to the application, it is found that on the FIR lodged by the petitioner at the local police station, one Parui Police Station Case No. 2 of 2021 dated January 02, 2021 under Sections 498A/307 of the Indian Penal Code and Section 3 of the Dowry Prohibition Act, was registered for investigation against the opposite party. This criminal case launched by the petitioner is now pending in the Court of the learned Chief Judicial Magistrate at Suri, Birbhum. Such being the factual scenario, the opposite party has to appear before the Court of the learned Chief Judicial Magistrate at Suri, to participate in the hearing of the aforesaid criminal case.

As it appears from the revisional application as well as from the affidavit-in-opposition, the distance

between the parental home of the petitioner and the Court at Raghunathpur is nearly 150 kms. The petitioner submits that she has no source of income and she is fully dependent on the savings of her father.

In a catena of decisions rendered by the Hon'ble Apex Court and this High Court it has been held that inconvenience of wife should be of paramount consideration while disposing of an application under Section 24 of the Code of Civil Procedure.

Having heard the learned Lawyers 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, Raghunathpur, Purulia and transfer the suit to the Court of the learned District Judge, Birbhum at Suri.

Therefore, the revisional application is allowed.

Let the Matrimonial Suit, being No. 63 of 2020 be withdrawn from the Court of the learned Additional District Judge, Raghunathpur, District – Purulia and the suit be transferred to the Court of the learned District Judge, Birbhum at Suri for disposal.

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

Learned District Judge, Birbhum at Suri, may dispose of the suit either himself/herself or transfer the suit to any of the competent Courts at the station for disposal.

With the aforesaid direction, C.O. 257 of 2021 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.)