

33 09.6.2022  
Sc Ct. no.10

**C.O. 362 OF 2022**  
**with**  
**I.A. No.CAN 1 OF 2022**

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Priya Bhattacharjee

Vs.

Arijit Bhattacharjee

Mr. Shibaji Kumar Das

... For the Petitioner

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a matrimonial suit from the court of the learned Additional District Judge, 10<sup>th</sup> Court, Alipore to a court of the learned Additional District Judge at Barrackpore, North 24-Parganas.

To put briefly, it is stated by the petitioner Priya Bhattacharjee that her married with the opposite party Arijit Bhattacharjee was solemnised on 14<sup>th</sup> November, 2007 under the provisions of the Special Marriage Act, 1954. Thereafter, on 25<sup>th</sup> February, 2008 a social marriage between them was celebrated. After her marriage, the petitioner started living with the opposite party as his wife and their marriage was duly consummated. Out of her wedlock with the opposite party the petitioner has given birth to two female children who at the time of filing of the application were aged about 11 years and 9 years respectively.

The opposite party was in service of army and as such the petitioner stayed with him at some places. While he was posted at Srinagar in Kashmir, the petitioner was subjected to torture both physically and mentally by the opposite party. In that regard, the petitioner made complaint against the opposite party with the superior Brigadier under whom the opposite party served. Under compelling circumstances the petitioner had to leave her matrimonial place and started living at her parental home. On the allegations of torture meted out to her, the petitioner lodged an FIR at Titagarh Police Station and the FIR was registered as Titagarh Police Station Case No. 258 of 2019 dated 24<sup>th</sup> May, 2019 under Sections 498A/406/34 of the Indian Penal Code and this criminal case is pending in the court of the learned Additional Chief Judicial Magistrate, Barrackpore. In order to sustain their livelihood, the petitioner has filed an application under Section 12 read with Section 23 of the Protection of Woman from Domestic Violence Act and an application under Section 125 of the Code of Criminal Procedure in the Court of the learned Additional Chief Judicial Magistrate, Barrackpore. The application under the Domestic Violence Act which has been registered as Criminal Misc. Case No. 227 of 2019 is pending in the court of the learned Judicial Magistrate, 2<sup>nd</sup> Court at Barrackpore. The maintenance case is also pending in the court of the learned Additional Chief Judicial

Magistrate, Barrackpore. The petitioner submits that the opposite party, by entering appearance before the concerned court at Barrackpore is contesting all the proceedings brought by the petitioner against him.

The petitioner complains that in order to harass her, the opposite party has filed a Matrimonial Suit being No. 104 of 2021 against the petitioner in the court of the learned District Judge, South 24 – Parganas at Alipore seeking annulment of their marriage under Section 24 of the Special Marriage Act and the matrimonial suit is now pending in the court of the learned Additional District Judge, 10<sup>th</sup> Court, Alipore.

The petitioner submits that it will be hardship for her to appear before the court at Alipore only to contest the matrimonial suit brought by the opposite party. Under such circumstances, the petitioner prays for transfer of the matrimonial suit to a court of learned Additional District Judge at Barrackpore.

Learned advocate appearing for the petitioner submits that all the proceedings as brought by the petitioner against the opposite party are pending in the courts at Barrackpore and the opposite party is contesting all these cases after appearing before the courts. On such score, the learned advocate submits that it will be just if the aforesaid matrimonial suit is brought to the concerned court of Barrackpore for disposal.

In the absence of the opposite party despite service of notice upon him, the facts and circumstances as narrated in the application, remain uncontroverted.

Having heard learned advocate appearing for the petitioner and considering the totality of the facts and circumstances as delineated in the application, I feel that it will be justified if the aforesaid matrimonial suit is transferred to a court at Barrackpore.

In view of the above, the application is allowed. Let the Matrimonial Suit being No.104 of 2021 pending in the court of the learned Additional District Judge, 10<sup>th</sup> Court, Alipore, South 24-Parganas be transferred to the court of the learned Additional District Judge, 1<sup>st</sup> Court, Barrackpore for disposal.

The learned Additional District Judge, 1<sup>st</sup> Court, Barrackpore may dispose of the suit either himself or transfer the suit to any of the courts of the Additional District Judge or Fast Track Court of Barrackpore for disposal.

The learned Additional District Judge, 10<sup>th</sup> Court, Alipore is directed to transmit the case records of the matrimonial suit to the learned transferee court immediately after receipt of a copy of this order.

Let a copy of this order be communicated to both the learned courts below.

Accordingly, the revisional application stands disposed of.

No order as to costs.

Photostat certified copy of this order, if applied for,  
be furnished expeditiously.

**(Rabindranath Samanta, J.)**