

S/L 10
22.9.2022
Court No.652
SD

CO 789 of 2022

Papiya Mazumdar
Vs.
Indrajit Ghosh

Mr. Uday Sankar Chattapadhyay
Ms. Trisha Rakshit

...for the Petitioner.

Mr. Bratin Kumar Dey
Ms. Anjana Banerjee
Ms. Mahasweta Pramanik

...for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.85 of 2022 from the Court of learned Additional District and Sessions Judge, Durgapur, Paschim Bardhaman to the Court of learned District Judge, Purba Bardhaman.

The petitioner has contended that the petitioner is the legally married wife of the opposite party and the marriage between the parties was solemnized on December 11, 2011 as per Hindu rites and customs. After marriage they started to reside together and they are blessed with a male child who is presently aged about two years.

The petitioner further submits that since marriage the opposite party and in laws of the petitioner started torturing the petitioner mentally and physically. On November 4, 2018 the petitioner lastly came out from her matrimonial home for treatment regarding fertility and she has not been

allowed to enter her matrimonial home again. The petitioner lodged a complaint before the Burdwan Women Police Station being GR No.809 of 2021 and another proceeding under the provisions of Protection of Women from Domestic Violence Act and the said cases are presently pending before the learned Chief Judicial Magistrate, Purba Bardhaman.

Subsequently, the petitioner also filed another proceeding under Section 125 of the Code of Criminal Procedure which is registered as Misc. Case No.332 of 2021 and presently pending before the Court of learned Chief Judicial Magistrate, Purba Bardhaman. Suddenly, the petitioner has received the summon of the present suit for dissolution of marriage which has been initiated by the husband/opposite party and pending before the learned Additional District and Sessions Judge, Durgapur.

The petitioner submits that she is a working lady and she has to look after a two years old child and on the contrary, the opposite party is a healthy person engaged in Government service and presently getting a salary of Rs.1,10,000/- per month. She further contends that being a working lady it is tough to travel all the way from Barsul, Purba Bardhaman to Durgapur Court at Paschim Bardhaman for attending the Court proceedings. The distance involves in between the petitioner's place of residence and the court at Durgapur is about 85 kms. and it is not possible for the petitioner to undertake the said

journey. Though she is a working lady but there is none to accompany her. At this stage, the petitioner has to spend the utmost number of hours towards the case and nourishment of her baby after managing her office work. The opposite party after inflicting torture upon the petitioner has now instituted the said matrimonial suit before the Court at Durgapur.

The petitioner in this context has relied upon a case law reported in (2016) 3 SCC 69 (Tejalben vs. Mihirbhai Bharatbhai Kothari).

Learned counsel for the opposite party raised objection against the said prayer for transfer. She submits that the petitioner being a working lady can very well attend the proceeding at Durgapur Court. Moreover, the distance between the Durgapur and Purba Bardhaman is not too far to travel. Accordingly, the opposite party has prayed for rejection of the said prayer.

The opposite party in this context has relied upon a case law reported in (2006) 9 SCC 197 (Anindita Das vs. Srijit Das).

Having considered the aforesaid facts and circumstances of the case and that the petitioner is a working lady in a Government office and that she has to look after the two years old baby and that the distance involves from her residence to the Court at Durgapur is about 85 kms. and that three other proceedings are pending before the Courts at Purba Bardhaman where the opposite party would be

required to attend and that in such cases, the convenience of the petitioner/wife is of paramount importance, I think this is a fit case to allow the application for transfer.

Accordingly, the learned District Judge, Purba Bardhaman is hereby directed to withdraw the Matrimonial Suit No.85 of 2022 pending before the court of learned Additional District Judge, Paschim Bardhaman at Durgapur and to transmit the same to the Court of learned District Judge, Purba Bardhaman within a period of three weeks from the date of communication of the order.

The transferee court shall give fresh notice upon both the parties before taking up for further proceeding of the suit.

Department is directed to serve a copy of this order to the learned District Judge, Purba Bardhaman as well as the learned District Judge, Paschim Bardhaman.

With these observations, C.O. 789 of 2022 is disposed of.

There will be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)