

D/L. 108.
October 31, 2022.
MNS.

C. O. No. 830 of 2022

Smt. Sulekha Das
Vs.
Sri Kausik Dutta

Mr. Nanda Dulal Bandyopadhyay,
Mr. Mahadeb Ghosh,
Mr. Pritam Ghosh

... for the petitioner.

Mr. Farhan Ghaffar,
Mr. Javed Majid,
Ms. Sagufta Saba Yasin

...for the opposite party.

This is an application for transfer of Matrimonial Suit No. 516 of 2021 from the court of learned Additional District Judge at Baruipur, South 24 Parganas to the court of learned Additional District Judge at Serampore, Hooghly.

Petitioner contended that the marriage between the petitioner and the opposite party was solemnized according to Hindu Rites, Rituals and Customs on May 28, 2010. Petitioner contended that due to regular torture and threat, the petitioner left the matrimonial house on December 5, 2021 and has been residing at Serampore under Hooghly District.

Petitioner further submits that she had already initiated one proceeding under Section 125 of the Code of Criminal Procedure for maintenance against the opposite party before the learned Judicial Magistrate at Serampore, being Mis. Case No. 202 of 2016, which is pending before the learned Chief Judicial Magistrate at Serampore. Now the opposite party has filed the present suit for dissolution of marriage by a decree of divorce before the learned Additional District Judge at Baruipur with an ulterior motive to harass the petitioner. Petitioner further submits that the distance involved between two places is about 125 kilometers and it is far away from the petitioner's present residential house. Furthermore, the petitioner has no male member in her family to accompany her and the financial condition of the petitioner is not sufficient to incur the travelling expenses. Petitioner wants to contest the suit and accordingly she has prayed for the aforesaid transfer.

Mr. Farhan Ghaffar, learned counsel appearing on behalf of the opposite party submits that it is not correct to say that in order to harass the petitioner, the opposite party has filed the suit

in the court at Baruipur. Actually, the cause of action of the suit arose within the jurisdiction of Baruipur Court and that is why it was filed before the Baruipur Court.

Having considered the rival contentions of the parties, it appears that one proceeding under Section 125 of the Code of Criminal Procedure is already pending before the learned Judicial Magistrate at Serampore and the opposite party would be required to attend the said case at Serampore. Furthermore, as submitted by the petitioner that the financial condition of the petitioner is not sufficient to incur travelling expenses.

Considering convenience of wife, which is of paramount importance the prayer made by the petitioner is allowed.

Learned District Judge, South 24 Parganas is directed to withdraw the Matrimonial Suit No. 516 of 2021 from the court of learned Additional District Judge at Baruipur, south 24 Parganas and to transmit the case record to the court of learned District Judge, Hooghly at Chinsurah, who in turn will transfer the same to the court of the learned Additional District Judge at Serampore having jurisdiction to try the same.

The entire process of transfer and transmission of the case record will be completed within a period of six weeks from date.

The transferee court will serve notice upon both the parties intimating the next date of hearing before proceeding further with the suit.

C. O. No. 830 of 2022 is accordingly disposed of.

The department is directed to send a copy of this order to the court of learned District Judge, South 24 Parganas and to the learned District Judge, Hooghly at Chinsurah, immediately.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Ajoy Kumar Mukherjee, J.)