

02.03.2022
Item No.7
Ct. No.7
CHC
(disposed of)

**C.O.855 of 2021
(Physical Hearing)**

**Nibedita Natta (Paul)
VS.
Sri Abhisek Natta**

Mr. Kushal Paul
...for the petitioner

Mr. Raja Biswas,
Mr. Abhijit Sarkar
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of Matrimonial Suit No.92 of 2020, from the learned court of 1st Additional District Judge, at Barasat, North 24 Parganas to Raiganj Court.

At the very threshold of this case, this may be mentioned over here that Mediation though undertaken, but ultimately it has been proved to be a futile exercise, as the Mediation is unsuccessful one.

Affidavits were exchanged between the parties, which are on record.

Mr. Paul, learned advocate appearing for the petitioner/wife submits that petitioner has been staying apart from her husband since 2016, and has been living in her parental house at Raiganj. In the meantime, petitioner/wife has instituted two criminal cases against her husband/opposite party; one under

D.V. Act, and another under Sections 498A/313 I.P.C. Both the criminal cases are pending at Raiganj Court.

It is also submitted by the learned advocate for the petitioner that husband has already entered his appearance, in D.V. Act case, and now he is on bail, so far as other criminal case is concerned.

As regards the grounds set out in the transfer application; harassment, hardship, long distance to be covered and multiplicity of litigations are focussed.

Opposite party is submitted to be an I.T. professional, now posted at Kolkata.

Upon taking the grounds, referred hereinabove, petitioner has proposed the instant transfer.

Per contra, Mr. Raja Biswas, learned advocate appearing for the opposite party strenuously disputes with the proposed transfer submitting that this transfer application is purely harassing one. The opposite party/husband would be seriously inconvenienced in the event of the case being transferred to the proposed place.

It is also contended that there is fair chance of receiving physical assault at the instance of petitioner and her family members, as the petitioner and her family members are very influential. Petitioner is also an owner of a Petrol Pump, and a Nourishing Home at

Raigunj is there in the paternal house family members of the petitioner/wife.

Incidentally, learned advocate for the opposite party submits that since there is chance of receiving physical assault, the case may be transferred to a neutral site having suitable connectivity.

Though, no document is there to prove the reasonable apprehension of receiving physical assault on the part of the opposite party/husband, but as regards the proposal advanced for selection of a neutral site, needs to be taken in to account vis-à-vis the grounds set out in the transfer application.

Learned advocate for the petitioner, in reply submits that though it would be little bit disadvantageous for the petitioner, but a choice of neutral site would however, duly address the grievance raised by the respective parties in the pending Matrimonial Suit.

Both the parties are thus, consensus as regards the selection of neutral site, which is of course Malda being such a place, which is having suitable connectivity, both by roadways and also by railways to reach over there.

Having considered the rival submissions of the parties, it appears that both the parties are interested to protect their respective inconveniences and

hardship, which is very common in a transfer application.

In a case of this nature, the fighting couple would address their respective grievance against each other, which is not to be addressed by this Court and it is, thus, left to be addressed by the trial Court at the time of trial.

Upon considering the comparative advantages, disadvantages and harassment of the parties, and bearing in mind the submission disclosed by the parties, the Court is of the view that Malda Court, would be the best option, being a neutral site, having availability of multiple conveyances to reach over there.

Thus it is expedient for the ends of justice that Malda Court in all fitness of the things would be the best choice, where it is expected that the comparative disadvantages and harassment of the parties may be curtailed to a considerable degree, and a balance may be ensured between the two.

With the discussion made hereinabove, the instant transfer application is disposed of directing learned Additional District Judge, 1st Court, at Barasat, North 24 Parganas to transfer the Matrimonial Suit No.92 of 2020 to the court of learned Additional District Judge,

1st Court, Malda, within four (04) weeks from date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 20th April, 2022.

Transferee Court, upon receipt of the case record, is directed to dispose of the pending Matrimonial Suit providing sufficient opportunities of hearing to either of the parties to this case.

Petitioner is directed to make communication of this order to both the transferee and transferor courts.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)