

16.11.2022
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Ct. no. 652
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C.O. 1073 of 2022

Priti Samanta (Moyra)
Vs.
Sumanta Kumar Samanta

Mr. Palash Bapari ...for the petitioner

Mr. Soumya Banerjee ...for the opposite party

Affidavit-in-opposition and affidavit-in-reply filed by both the parties, are taken on record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Matrimonial suit no. 179 of 2021 presently pending before the court of learned Additional District Judge, 1st Court, Uluberia to the court of Purba Burdwan.

The petitioner contended that the petitioner got married with the opposite party on 26.2.2022. It is alleged by the petitioner that after marriage, the opposite party and her in laws inflicted physical and mental torture upon her and ultimately on 12.7.2020, she was driven out from her matrimonial house. Thereafter, she had lodged a criminal complain on 16.10.2020 under Section 498A/406/323/354/34 of the Indian Penal Code. The said case is pending before the learned Magistrate, Purba Burdwan. The petitioner further submits she has initiated another proceeding under

Section 125 of the Code of Criminal Procedure which is pending before the learned Magistrate, Purba Burdwan. All on a sudden, the opposite party had instituted the aforesaid matrimonial suit at Uluberia court seeking decree of divorce. The court at Uluberia situates at a distance of 150 kilometres from the present residence of the petitioner. The petitioner being an unemployed lady, is leading her livelihood in tremendous hardship and she has no sufficient means to make journey to Uluberia court in a regular manner. It will cause her immense hardship if she has to travel every date of hearing almost 300 kilometres both way from Burdwan to Uluberia. Moreover, there is no direct communication in between Uluberia and Burdwan and it takes more than 5 hours to reach Uluberia from Burdwan. She further alleged that the opposite party is not paying her maintenance who is an unemployed lady and as such there is every likelihood that the aforesaid matrimonial suit would be disposed of in the Uluberia court in her absence. Accordingly, she has prayed for aforesaid transfer.

Learned counsel for the opposite party submits that the opposite party/husband is now residing at Uluberia where he is presently employed, though his permanent residence is within the District of Purba Burdwan. He further submits that if he has to attend the said proceeding at Purba Burdwan court then he may be terminated from the job.

Having considered the fact and circumstances of the case and that there is no direct communication in between Uluberia and Burdwan court and that both the party's permanent address is within the jurisdiction of Purba Burdwan court and that other two proceedings are initiated by the petitioner is pending before the Purba Burdwan court where the opposite party would be required to attend and that in such circumstances where the husband/opposite party has sought for dissolution of marriage, inconvenience caused to the petitioner/wife is of paramount consideration, I find that this is a fit case where the prayer made by the petitioner is allowed.

Learned District Judge, Howrah is directed to withdraw the Mat suit no. 179 of 2021 pending before the court of learned Additional District Judge, 1st Court, Uluberia and to transmit the same to the court of learned District Judge, Purba Burdwan within a period of three weeks from the date of communication of the order.

The transferee court shall issue fresh notice upon both the parties intimating next date of hearing before proceeding further with the present suit.

The department is directed to send a copy of the order to the learned District Judge, Howrah and Learned District Judge, Purba Burdwan.

Accordingly, C.O. 1073 of 2022 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)