

23.11.2022

List – D/L.

Sl No.156.

Mithun

Ct.No.652.

CO 1181 of 2022

Moumita Dey

Vs.

Mintu Dey

Mr. Keshab Chandra Das, Adv.

Ms. Aparajita Mondal, Adv.

Mr. Biplab Adak, Adv.

...for the petitioner.

Mr. Satyajit Basu, Adv.

Mr. Badal Saha, Adv.

...for the opposite party.

Affidavit-in-opposition and affidavit-in-reply filed
in Court today be kept with the record.

This is an application under Section 24 of the
Code of Civil Procedure seeking transfer of Matrimonial
Suit No.82 of 2022 pending in the Court of learned
Additional District Judge at Kalyani, Nadia to the Court
of learned District Judge, Purba Bardhaman.

Petitioner contended that the marriage between
the petitioner and the opposite party was solemnized
according to Hindu Rites and Customs on 19.11.2018.
The parties are blessed with a female child who is now
aged about 2 years and 3 months. Petitioner alleged
that after marriage she was subjected to torture both
physically and mentally. Petitioner is an unemployed

lady having no source of income and for which she initiated a proceeding under Section 125 of the Code of Criminal Procedure being Misc. Case No.134 of 2022 which is pending before the learned Chief Judicial Magistrate at Burdwan.

In the meantime, the husband/opposite party has initiated aforesaid suit for dissolution of marriage under Section 13 of the Hindu Marriage Act, which is now pending before the Court of learned Additional District Judge, Kalyani, Nadia. Petitioner apprehends that in the event, the petitioner attends Kalyani Court in order to contest the proceeding, she will be physically assaulted by the members of the family of the opposite party and their associates and it would be unsafe for the petitioner to travel to Kalyani Court from her residence at Burdwan. Moreover, there is none to accompany her to the Court at Kalyani situated at a distance of 72 Kms from her residence.

Petitioner further alleged that the opposite party has deliberately filed the said proceeding before the Court at Kalyani knowing fully well that the petitioner will not be able to attend the said suit effectively from her present place of residence and he will surely obtain a decree of divorce against the petitioner. Accordingly, petitioner has sought for aforesaid transfer.

Mr.Satyajit Basu, learned Advocate on behalf of the opposite party raised objection and in his affidavit-in-opposition he has contended that on 31st March, 2020, the opposite party went to his matrimonial house to bring his wife and daughter back to his residence but the petitioner declined to come back and she along with her family members assaulted the opposite party physically and threatened the opposite party. Accordingly opposite party apprehends that if the case is transferred to the Court at Burdwan then his life will be at stake and he may be assaulted at any point of time. Accordingly, the opposite party submits that if the transfer as sought for by the petitioner is allowed, it may be allowed to any other Court except the Court at Purba Burdwan.

Having considered the facts and circumstances of the case and the allegation and counter allegation as made by the parties, this Court is of the view that if the aforesaid matrimonial suit is transferred to a place which will be convenient to attend by the petitioner in terms of communication and also will not cause inconvenience to the opposite party, then neither party will have cause to prejudice. Considering location and public transportation, both the parties agree that the Court of District Judge, Hooghly at Chinsurah will be convenient for both of them.

In view of the above, C.O.1181 of 2022 is hereby disposed of with a direction upon the District Judge, Nadia at Krishnanagar to withdraw Matrimonial Suit No.82 of 2022 from the Court of the learned Additional District Judge, Kalyani, Nadia and to transmit the same to the Court of the learned District Judge, Hooghly at Chinsurah within a period of 3 weeks from the date of communication of order, for disposal.

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

Department is directed to send a copy of this order to the learned District Judge, Hooghly at Chinsurah and learned District Judge, Nadia at Krishnanagar immediately.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Ajoy Kumar Mukherjee, J)