

13.9.2022
78 & 79
Ct. no. 652
sb

C.O. 1221 of 2022
With
C.O. 1961 of 2021

Monami Dari Halder @ Monami Dari
Vs.
Srimanta Halder

Mr.Dhananjoy Banerjee
Ms. Oindrila Ghosh
Ms. Ankita Maji ...for the petitioner

Mr. Anirban Chakraborty ...for the opposite party

This is an application for transfer of the proceeding being Matrimonial suit no. 692 of 2021 pending before the court of learned District Judge, Purba Burdwan to the court of learned Additional District Judge, Chandannagar in connection with CO no. 1221 of 2022 and also prayer for transfer of another proceeding being Act VIII, case no. 43 of 2021 pending before the learned District Judge, Purba Burdwan to the court of learned Additional District Judge, Chandannagar being CO no. 1961 of 2021. Since both the applications under Section 24 of civil procedure code involves same question of law and fact, both are hereby disposed of by the same order.

The petitioner contended that the marriage between the parties was solemnised on 22.2.2015 and parties are blessed with a male child who is now aged about 3 years and is under the custody of the

mother/petitioner. It is further submitted that the petitioner has already initiated a proceeding under Section 156(3) of the Code of Criminal Procedure which subsequently culminated into a first information report being Singur police station case no. 49 of 2021 dated 1.3.2021 under Section 498A/406 of the Indian Penal Code and now pending before the court of learned Additional Chief Judicial Magistrate, Chandannagar. Furthermore, the petitioner/wife has also initiated a proceeding under Section 125 of the Code of Criminal Procedure before the court of learned Additional Chief Judicial Magistrate, Chandannagar being MC case no. 72 of 2021. Later on the petitioner also filed an application under Section 12 of the Protection of women from Domestic Violence Act, which is also pending before the court of learned Additional Chief Judicial Magistrate, Chandannagar, being Misc. case no. 117 of 2021.

In the above backdrop, the petitioner has received summon in connection with aforesaid two cases under Section 27 of the Hindu Marriage Act for dissolution of marriage and the other one for the custody of child under the provision of Section 25 of the Guardians and Wards Act, 1890, initiated by the husband/opposite party, in the court of Purba Burdwan.

Learned advocate for the petitioner submits that the opposite party/husband has not paid any maintenance amount and the petitioner is unemployed

lady and is custodian of a minor child. Moreover, she has no other family member to accompany her and further the court at Burdwan situates at a distance of about 200 kilometres from her residence at Singur and as such she is not in a position to appear before the Burdwan court to contest the aforesaid two proceedings.

Learned advocate for the opposite party submits that his client does not have any objection if the transfer of said two cases as sought for by the petitioner, is allowed.

Having considered the facts of the case that three proceedings, already initiated by the petitioner are pending before the court of Chandannagar, where the opposite party/husband is required to attend and that the distance involved between the residence of the petitioner and the court at Burdwan is about 200 kilometres and that the petitioner is custodian of 3 years old child and that the petitioner is unemployed lady, and that in such cases convenience of wife is of paramount importance I find that this is a fit case where the prayer made by the petitioner is required to be allowed.

Accordingly, C.O. 1221 of 2022 and C.O. 1961 of 2021 are allowed.

Learned District Judge, Burdwan is directed to withdraw the Matrimonial suit being no. 692 of 2021 and Act VIII, case No. 43 of 2021 now pending before the

court of learned District Judge, Purba Burdwan and to transmit the two case records to the court of learned District Judge, Hooghly within a period of two weeks from the date of the communication of the order and the learned District Judge, Hooghly in turn will assign both the two cases to the Court competent to try at Chandannagar or at Chinsurah for disposal. Learned transferee court will serve fresh notice upon both the parties before taking up further continuance of the said two cases.

The department is directed to send a copy of the order to learned District Judge, Purba Burdwan as well as learned Additional District Judge, Chandannagar, Hooghly.

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.)