

Ct. 29.6
No. 2022
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C.O. 1428 of 2022
Mousumi Choudhuri alias Das
-Versus-
Monidip Chaudhuri

Mr. Malay Bhattacharya
Mr. Subhrajyoti Ghosh

...For the Petitioner

Affidavit-of-service on behalf of the petitioner in Court today be kept on record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a Matrimonial Suit from the Court of the learned District Judge, North 24-Parganas at Barasat to the concerned Court at Bishnupur, District - Bankura.

To put succinctly, it is the case of the petitioner, Mousumi Choudhuri alias Das that she was married to the opposite party on December 12, 2018 and their marriage was registered. The marriage between them was duly consummated and out of her wedlock with the opposite party, the petitioner gave birth to a female child, namely, Mayurakkhi Chaudhuri in the year 2019. The petitioner alleges that soon after her marriage the opposite party inflicted torture on her by various ways. Ultimately, she was driven out of her matrimonial home on March 03, 2021. Getting no other alternative she took shelter at her paternal home and now she has been staying at her parental home.

On the allegations of torture, the petitioner launched a criminal case vide Bishnupur Police Station Case No. 193 of 2021 dated December 21, 2021 under Section 498A of the Indian Penal Code and under Sections 3/4 of the Dowry Prohibition Act. This case is pending in a Court of learned Judicial Magistrate at Bishnupur, Bankura. In order to sustain livelihood, she is now working as an employee in

M/s. Senco Gold and Diamond on temporary basis and getting only a meager amount, which is not sufficient to maintain her child and herself. Under such circumstance, the petitioner has brought a Misc. Case, being No. 26 of 2022 under Section 125 of the Criminal Procedure Code seeking maintenance allowance from the opposite party and this case is also pending in a Court of learned Judicial Magistrate, Bishnupur, Bankura.

The petitioner came to know that the opposite party filed a Matrimonial Suit being No. 2691 of 2021 against her under Section 22 of the Special Marriage Act, 1954 in the Court of the learned District Judge, North 24-Parganas at Barasat seeking restitution of conjugal rights.

The petitioner states that the distance between her parental home and the Court at Barasat is about 150 kms. and it will take five hours by bus to reach Barasat Court from her parental home. The petitioner will face immense difficulties if she has to go to Barasat Court keeping her minor child at her parental home.

Under the aforesaid circumstances, the petitioner seeks transfer of the matrimonial suit.

It appears from the affidavit-of-service and the envelope containing the notice that the opposite party refused to receive the notice. So it will be treated that the notice has been duly served upon the opposite party. Since the opposite party has chose not to contest the revisional application, it stands that the facts and circumstance as narrated in the application supported by affidavit remain uncontroverted.

What I find, a criminal case under Section 498A of the Indian Penal Code and under Section 3/4 of the Dowry Prohibition Act and a maintenance case under Section 125 of the Criminal Procedure Code filed by the petitioner are pending in the Courts of Judicial Magistrate at Bishnupur, Bankura. That being so, the opposite party has to appear before the concerned Courts at Bishnupur to attend the hearing of the aforesaid two cases.

The facts and circumstances as stated in the application indicate that the petitioner will sole inconvenience if she is to travel a long distance of 150 kms. leaving her minor child at her parental home to attend the matrimonial proceeding before the learned District Judge at Barasat, North 24-Parganas.

Having heard the learned Counsel appearing for the petitioner and on consideration of the factual aspects as depicted in the application I feel that it will be wise to withdraw the aforesaid matrimonial suit and transfer the suit to the Court at Bishnupur, Bankura.

In view of the above, the revisional application is allowed.

Let the Matrimonial Suit being No. 2691 of 2021 be withdrawn from the Court of the learned District Judge, North 24-Parganas at Barasat and the suit be transferred to the Court of the learned Additional District Judge at Bishnupur, Bankura for disposal.

The learned District Judge, North 24-Parganas at Barasat, is directed to transmit the case record of the matrimonial suit to the transferee Court if the said suit is pending in his/her Court or instruct the concerned Court to

transmit the case record to the transferee Court for disposal immediately after receipt of a copy of the order.

With the aforesaid direction, C.O. 1428 of 2022 stands disposed of.

There will, however, be no order as to costs.

Let a copy of this order be communicated to both the Courts below for information and compliance.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis upon compliance of all formalities.

(Rabindranath Samanta, J.)