

Ct. 19.7
No. 2022
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C.O. 1513 of 2022

**Monjula Das
-Versus-
Tapas Kumar Das**

**Mr. Pappu Adhikari
Mr. Subir Debnath
Ms. Roma Roy**

...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 Additional District Judge, at Rampurhat, District - Birbhum to the concerned Court of learned Additional District Judge at Ranaghat, District - Nadia.

It is stated by the petitioner Monjula Das that her marriage with the opposite party, Tapas Kumar Das was solemnized on December 15, 2013 according to Hindu rites and customs. The marriage between them was consummated. Out of her wedlock with the opposite party, the petitioner gave birth to a male child, namely, Abhranil Das on September 23, 2015.

Soon after her marriage, the opposite party inflicted torture on her. Ultimately, the opposite party drove the petitioner along with her child out of his house on October 26, 2020. Since then, the petitioner has been residing at her parental home.

To sustain livelihood of her child and herself the petitioner has filed a miscellaneous case, being Misc. No. 377 of 2020 under Section 125 of the Code of Criminal Procedure seeking maintenance allowance from the opposite

party. Besides, she has filed an application under Sections 12/17/18/20/23 of the Protection of Women from Domestic Violence Act against the opposite party in the Court of the learned Additional Chief Judicial Magistrate at Ranaghat. On the allegations of torture on her, the petitioner lodged a FIR at Ranaghat Police Station, which was registered as Ranaghat Police Station Case No. 272 of 2021 under Sections 498A/406/34 of the Indian Penal Code.

The petitioner came to know that the opposite party filed a matrimonial suit, being No. 95 of 2021 against her in the Court of the learned Additional District Judge at Rampurhat, District – Birbhum, seeking restitution of conjugal rights.

The petitioner submits that the distance between her parental home and the Court at Rampurhat, District – Birbhum, is nearly 120 kms. Under such circumstances, it will be hardship for her to appear before the Court at Rampurhat to attend the matrimonial proceeding travelling such a long distance.

Since, the opposite party has chosen not to contest the revisional application, it will be presumed that all the averments/allegations as made in the application remain uncontroverted.

As I find from the case record, a maintenance case under Section 125 of the Code of Criminal Procedure brought by the petitioner is pending in the Court of the learned Additional Chief Judicial Magistrate at Ranaghat, District - Nadia. Besides, a proceeding under Sections 12/17/18/20/23 of the Protection of Women from Domestic

Violence Act is also pending in the Court of the learned Additional Chief Judicial Magistrate at Ranaghat. A criminal case launched by the petitioner under Sections 498A/406/34 of the Indian Penal Code is also pending in the Court of the learned Additional Chief Judicial Magistrate at Ranaghat. In such being the factual scenario, the opposite party will have to appear before the concerned Courts at Ranaghat to attend the aforesaid proceedings.

The child of the petitioner is too minor. So, it will be inconvenient for the petitioner to appear before the Court at Rampurhat.

In a catena of decisions rendered by the Hon'ble Apex Court as well as this High Court, it has been held that inconvenience of wife should be of paramount consideration while disposing of an application under Section 24 of the Code of Civil Procedure.

The facts and circumstances as narrated in the application demonstrate that it will be hardship for the petitioner to appear before the Court of the learned Additional District Judge at Rampurhat, District - Birbhum.

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

Let the Matrimonial Suit, being No. 95 of 2021 be withdrawn from the Court of the learned Additional District Judge at Rampurhat, District – Birbhum and the suit be transferred to the Court of the learned Additional District Judge at Ranaghat, District - Nadia.

The learned Additional District Judge at

Rampurhat, District – Birbhum is directed to transmit the case record of the matrimonial suit to the transferee Court immediately after receipt of a copy of the order.

With the aforesaid direction, C.O. 1513 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.)