

14.07.2022
Item No.12
Ct. No.14
S.A.

CO 1545 of 2022

Soma Tarafdar
-vs-
Ashis Bhowal

Mr. Satyam Mukherjee
Ms. Sayani Ahmed

...for the petitioner

Affidavit of service filed by the petitioner be kept with the record.

Despite service of notice upon the opposite party, there is no representation on his behalf.

This revisional application arises out of 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, Fast Track Court, Ranaghat, Nadia to the court of the learned District Judge, North 24 Parganas at Barasat.

To put succinctly, it is the case of the petitioner that her marriage with the opposite party was solemnized on 26th July, 2020 according to the provisions of Special Marriage Act, 1954. The marriage between them was duly consummated but out of their wedlock, no child was born.

It is alleged by the petitioner that some time after her marriage the opposite party subjected her to cruelty by various ways. It be noted that the petitioner and opposite party after their marriage

started residing at the parental home of the petitioner. But after some time, the opposite party left her parental home giving assurance to her that he would come back again from his place of work. But he never came back to her parental home to live with her. The petitioner has come to learn that the opposite party married an another woman on 8th March, 2021.

On the allegations of torture and bigamy, the petitioner lodged an FIR at Gobardanga Police Station and the FIR was registered as Gobardanga P.S. Case No.58 dated 6th March, 2022 under Sections 498A/494/34 of the Indian Penal Code.

Besides, she filed a Complaint Case No.728 of 2021 in the court of he learned Chief Judicial Magistrate at Barasat, North 24 Parganas under Sections 420/406/494/506/109/120B of the Indian Penal Code and the same is pending in the court of learned Judicial Magistrate at Barasat.

That apart, she has brought a Maintenance Case being No.269 of 2022 under Section 125 of the Code of Criminal Procedure against the opposite party in the court of the C.J.M. at Barasat seeking maintenance allowance.

The petitioner came to know that the opposite party filed a Matrimonial Suit being No.626 of 2020 in the court of the learned Additional District Judge, Ranaghat. The Suit has been transferred to the court

of the learned Additional District Judge, Fast Track Court at Ranaghat and the Suit has been renumbered as MAT Suit No.46 of 2020.

The petitioner states that the distance between her parental home and the court at Ranaghat is nearly 50 kms. Her parents are aged and ailing. As such there is none in her parental home to accompany her to the court at Ranaghat to attend the matrimonial proceeding. Hence, the prayer.

Since the opposite party has chosen not to contest the revisional application, it stands that the facts and circumstances as narrated in the application supported by affidavit remain uncontroverted.

As it appears from the application as well as from the documents on record, one Criminal Case under Sections 498A/494 IPC and another Criminal Case under Sections 420/406/494/506/109/120B of the Indian Penal Code are pending in the court of the learned C.J.M. at Barasat.

The Maintenance Case being No.269 of 2022 brought by the petitioner against the opposite party is also pending in the court of the learned C.J.M. at Barasat.

The facts and circumstances as narrated by the petitioner in the application project that the petitioner will face inconvenience if she has to appear before the

court at Ranaghat. It is the legal principle that the wife's inconvenience will be taken as a paramount consideration while disposing of an application for transfer of a Matrimonial Suit.

Having heard learned counsel appearing for the petitioner and considering the facts and circumstances as demonstrated above, I feel that it will be wise to withdraw the Matrimonial Suit and to transfer the Suit to the concerned court at Barasat.

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

Let the Matrimonial Suit being No.626 of 2020 renumbered as MAT Suit No.46 of 2020 be withdrawn from the court of the learned Additional District Judge, Fast Track Court at Ranaghat and the Suit be transferred to the court of the learned District Judge, North 24 Parganas at Barasat.

The learned District Judge at Barasat may either dispose of the Suit himself or herself or transfer the Suit to any of the courts of Additional District Judge at Barasat for disposal.

The learned Additional District Judge, Fast Track Court, Ranaghat, Nadia is directed to transmit the case record of the Matrimonial Suit to the learned Transferee Court immediately after receipt of the copy of this order.

Department is directed to communicate copy of the order to both the learned courts below immediately.

With the above direction is passed, CO 1545 of 2022 stands disposed of.

No order as to costs.

(Rabindranath Samanta, J.)