

177 08.12.2022
RP Ct.No. 652

CO 1656 OF 2022

SMT. DEBARATI MAITRA
vs.
SRI SANTANU GHOSH

Mr. Siddhartha Lahiri
Mr. Subhasish Saha
Mr. Debraj Dutta
Mr. Mainak Chatterjee
Ms. Stela Sen

... for the petitioner

Mr. Nimai Chandra Konar
Mr. Mihir Kumar Das

... for the opposite party

This is an application under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of Matrimonial Suit No.89 of 2016 and Misc. Case No.03 of 2021 pending before the Court of the learned Additional District & Sessions Judge, Gangarampur at Buniadpur, Dakshin Dinajpur to the Court of the learned District Judge at Barrackpore, North 24 Parganas.

The petitioner contended that the petitioner was married with the opposite party according to the Hindu Rites and Customs on 21.02.2011. The petitioner alleges that the matrimonial life of the petitioner was not peaceful and every now and then she was subjected to physical torture by the opposite party on the pretext of demanding money from the petitioner's parents. The petitioner further alleged that the opposite party used to indulge himself into

daily drinking and gambling by which he used to spend his earning. The petitioner was compelled to initiate criminal proceeding under Sections 498A/34 of the Indian Penal Code, 1860, which is pending before the learned Judicial Magistrate at Gangarampur and also filled present suit against opposite party/husband for dissolution of marriage by a decree of divorce. The petitioner submits that the petitioner was forced to leave her matrimonial home on 21.06.2015 and since then she is staying at her paternal home at Gangarampur. Now she is residing at Barrackpore. The petitioner alleges that while she was at her paternal home she used to receive threat calls from the opposite party for withdrawal of the said matrimonial suit. During pendency of the said proceeding the opposite party on 17.02.2018 stopped the school van of their minor daughter and attempted to kidnap the minor but due to sudden intervention of the petitioner and her brother the opposite party could not succeed in his attempt. However, the petitioner lodged written complain with Gangarampur Police Station to that effect. The opposite party also filed an application for taking custody of the minor child and petitioner states that since filing of the aforesaid case against the petitioner he is feeling grudge and animosity against the petitioner and threatening the petitioner not to attend hearing of the said suit, otherwise the minor's life will be endangered. In the above backdrop, the petitioner has prayed for aforesaid transfer.

Learned advocate appearing on behalf of the opposite party vehemently raised objection to the aforesaid prayer and contended that the permanent residence of the husband is at Malda and the permanent residence of the petitioner/wife is at Buniadpur. In such circumstances, if the case is at all required to be transferred, it may be transferred to any place which would be nearly mid point of the two places, so that neither the wife nor the husband, face any inconvenience in attending the said two proceedings.

Considering the rival submissions made by the learned Advocates for the parties and also considering the allegations and counter allegations, I am of the view that both the parties will not suffer any inconvenience if the aforesaid matrimonial suit is transferred to the court at Kalyani, Nadia.

In view of above CO 1656 of 2022 is hereby disposed of with a direction upon the learned District Judge, Dakshin Dinajpur to withdraw the Matrimonial Suit No.89 of 2016 and Misc. Case No.03 of 2021 pending before the Court of the learned Additional District Gangarampur at Buniadpur, Dakshin Dinajpur and to transmit the same to the Court of the learned District Judge Nadia, within a period of three weeks from the date of communication of the order, who in turn will transfer the same to the Court of learned Additional District Judge, Kalyani at Nadia having jurisdiction to try the suit within a period of four weeks

thereafter. The transferee Court shall serve fresh notice on both the parties indicating the next date of hearing before proceeding further. The Department is directed to send a copy of this order to the learned District Judge at Gangarampur, Buniadpur, Dakshin Dinajpur and the learned District at Kalyani, Nadia immediately.

Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

(Ajoy Kumar Mukherjee, J.)