

42 15.06.2022
NB Ct. 10

CO 1519 of 2021

Rina Chatterjee
Vs.
Madhusudan Chatterjee

Mr. Kallol Kumar Basu,
Md. Jannat ul Firdous,
Ms. Tithi Mazumder.
...for the petitioner.

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

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

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, Bolpur, Birbhum to the Court of the learned Additional District Judge, Durgapur, Paschim Bardhaman.

It is stated by the petitioner Rina Chatterjee that she was married to the opposite party, Madhusudan Chatterjee and their marriage was solemnized on 29th April, 2013 according to the Hindu Rites and Customs. The marriage between them was duly consummated. Out of their wedlock, she gave birth to a female child on 1st April, 2014.

It is alleged by the petitioner that soon after her marriage with the opposite party, the opposite party subjected her to cruelty by various means. Ultimately, she was driven out of her matrimonial home. Getting no other alternative she took shelter at parental home and she now stays there.

On the allegations of torture of her, the petitioner filed a complaint under Section 156(3) of the Code of Criminal Procedure in Court of the learned Additional Chief Judicial Magistrate, Durgapur and the complaint so filed by the petitioner has been registered as Faridpur P.S. Case No.51 of 2017 dated 15th June, 2017 under Sections 498A/323/325/406/307/506/120B of the Indian Penal Code. The case brought by the petitioner is now pending in Court of the learned Additional Chief Judicial Magistrate, Durgapur. Besides, to sustain her livelihood, the petitioner has filed a maintenance case under Section 125 of the Code of Criminal Procedure registered as Misc. Case No.51 of 2019 against the opposite party and now this case is pending in Court of the learned Judicial Magistrate, 4th Court, Durgapur.

After getting summons from a Court at Bolpur, the petitioner came to know that the opposite party filed a matrimonial suit being MAT Suit No.45 of 45 of 2019 against her in Court of the learned Additional District Judge, Bolpur, Birbhum.

The parents of the petitioner are ailing and without their assistance it will be very difficult for the petitioner to travel a long distance to attend the matrimonial proceedings before the Court at Bolpur, Birbhum.

Under such circumstances, the petitioner prays for transfer of the aforesaid matrimonial suit.

In the absence of the opposite party, it will be deemed that the facts and circumstances as stated in the application supported by the affidavit remain uncontroverted. The

uncontroverted facts establish that the petitioner has genuine difficulties to appear before the Court of Additional District Judge, Bolpur to attend the proceedings of the matrimonial suit. One criminal case under Sections 498A/323/325/406/307/506/120B of the Indian Penal Code brought by the petitioner is pending to the Court of the learned ACJM, Durgapur. Besides, one maintenance case brought by her is also pending in the Court of learned Judicial Magistrate at Durgapur. That being so, the opposite party has to appear before the Courts at Durgapur to attend the Court proceedings.

In view of the above, the revisional application filed by the petitioner is allowed.

Let the Matrimonial Suit being MAT No.45 of 2019 being withdrawn from the Court of the learned Additional District Judge, Bolpur, Birbhum and the suit be transferred to the Court of the learned Additional District Judge, 1st Court, Durgapur, Paschim Bardhaman for disposal.

The learned District Judge, Bolpur is directed to transfer the case of the aforesaid matrimonial suit to the learned transferee Court immediately after receipt of the copies of this order.

Let a copy of this order be communicated to both the learned Courts below immediately.

Thus, CO 1519 of 2021 stands disposed of.

No order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Rabindranath Samanta, J.)