

31.03.2022
Ct. 21
D/L 30
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C.O. 1537 of 2021

Sancharini Banerjee

-Vs-

Souvik Mukherjee

Mr. Anubrata Dutta,

... for the petitioner

Mr. Sambhu Nath De,
Mr. Ranjit Kumar Ghosh,

... for the opposite party

Mr. Anubrata Dutta , learned advocate appears for the petitioner and Mr. Sambhu Nath De, learned advocate appears for the opposite party.

The application under Section 24 of the Code of Civil Procedure is taken up for hearing.

By filing the application under Section 24 of the Code of Civil Procedure, the petitioner/wife has prayed for transfer of Matrimonial Suit No. 1651 of 2020 pending before the learned Court of the Additional District Judge at Barrackpore, FTC-III to the Court of learned District Judge at Alipore.

It has been contended by the petitioner/wife the marriage between the parties was arranged through matrimonial website. Their marriage was solemnized as

per Hindu rites and customs on 01.08.2017. The marriage was duly consummated.

It has been alleged by the petitioner that from initial stage of marriage the petitioner and her parents were subjected to both mental and physical torture in the hands of the opposite party, who is an alcoholic and addict to contraband substances. Out of fear of her life, she left her matrimonial home without taking her personal belongings and took shelter at her parental home at Titagarh within two months of her marriage.

Torture did not stop there, the opposite party started visiting her parents and there he started creating chaotic and embarrassing situation by abusing petitioner and her family members and for which her parents had to lodged complaints against the opposite party before the police on 07.12.2017, 15.12.2017, 15.7.2018 and 15.8.2018, but the police failed to take any action and as such, the mother of the petitioner was compelled to lodged a complaint under Section 156(3) of the Code of Criminal Procedure before the Additional Chief Judicial Magistrate at Barrackpore, and which has been registered as Titagarh Police Station Case No.467 of 2018 under Sections 307/324/341/427/354/506 of the Indian Penal Code.

The father of the petitioner died on 08.01.2020. After demise of her father, the opposite party/husband continued to make the life of the petitioner and her

widow mother miserable by frequently visiting their house by making abusive phone calls, by sending derogative whatsapp messages and emails. He even filed a false criminal case against her mother being Bardhaman Police Station Case No.105 of 2020 and where her mother had to seek bail.

When the torture upon her did not cease, then she filed a case under Sections 498A/406/325/506 of the Indian Penal Code in Dum Dum Police Station being Dum Dum Police Station Case No.54 of 2020 and in the said case, charge sheet has already been filed against the opposite party under Sections 498A and 34 of the Indian Penal Code.

Thereafter, the mother of the petitioner had to lodge another FIR against the opposite party and on the basis of which Titagarah Police Station Case No.613 of 2020 under Sections 32/384/379/120B/447/506/34 of the Indian Penal Code has been registered against the opposite party.

It has also been contended that due to continuous torture being inflicted upon the petitioner and her mother, they had to abandon their own residential house at Titagarh and had to take shelter in a rented house in South 24 Parganas.

The opposite party by creating pressure and under coercion wanted to obtain signature of the petitioner on mutual divorce application and when he

could not succeed and then he filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. In such proceeding, when the petitioner filed an application under Section 24 of the Hindu Marriage Act, then the husband/opposite party withdrew the said suit and filed divorce suit being Matrimonial Suit No.1651 of 2020 under Section 13 of the Hindu Marriage Act on the ground of cruelty.

Thus filling the present application, the petitioner has prayed for transfer of Matrimonial Suit No.1651 of 2020 from the Court of the learned Additional District Judge at Barrackpore, FTC-III to the Court of the learned District Judge at Alipore, under whose jurisdiction she is presently residing.

On the other hand, the opposite party vehemently raises objection and submits that the opposite party is an ordinary residents of Bardhaman and all along, he has been contesting the criminal cases that have been filed against him by the petitioner and her mother, which are pending in different criminal courts at Barrackpore.

The learned advocate for the opposite party submits that the petitioner is an ordinary resident of Titagarh within the jurisdiction of Barrackpore Court and she has not disclosed her present address within the district of South 24 Parganas. She has filed the present application just to harass the opposite party

and to delay the hearing of the matrimonial suit. Therefore, he prays for rejection of the application under Section 24 of the Code of Civil Procedure.

Prima facie, from the cause title of the application under Section 24 of the Code of Civil Procedure, I find that the petitioner to be an ordinary resident of Talpukur, within Titagarh Police Station in the district of North 24 Parganas. The opposite party to be an ordinary resident of Bardhaman, but also appears to be a resident of Italgacha, within Dum Dum Police Station in the district of North 24 Parganas.

It has come on record that three criminal cases filed by the petitioner and her mother against the opposite party are pending in different Courts of Barrackpore and which the opposite party appears to have been contesting.

Nothing has come on record to show the present address of the petitioner to justify that she and her mother have been compelled to abandon their own house at Titagarh and have to take shelter in a rented house in the district of South 24 Parganas for the safety of their life. Since the petitioner appears to be an ordinary resident of Titagarh within the jurisdiction of Barrackpore Court. The husband/opposite party appears to be contesting three criminal cases filed against him by the petitioner and her mother and which are pending before different Courts of Barrackpore.

Therefore, this Court does not find any reason to transfer the matrimonial suit filed by the husband, which is pending in Barrackpore Court, within the territorial jurisdiction where the permanent residence of the petitioner is situated.

Therefore, this Court does not find any merit in the application under Section 24 of the Code of Civil Procedure filed by the petitioner and rejected.

Accordingly, **C.O. 1537 of 2021** and the connected applications are dismissed.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Kesang Doma Bhutia, J.)