

30.11.2022
Court No.652
Item No.8
AP

CO 1965 of 2022
With
CAN 1 of 2022
Smt. Anuradha Paul (nee Dey)
Vs.
Sri Sambit Paul

Mr. Sourav Sen
Mr. Pran Gopal Das

... For the Petitioner.

Mr. Debdipto Banerjee
Mr. Suman Sankar Chatterjee

... For the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial Suit No.73 of 2019 presently pending before the Learned Principal Judge, Family Court at Calcutta to the learned Fast Track Court No.1 at Sealdah.

The petitioner contended that the petitioner was married with the opposite party on 16th January 2013 under the Special Marriage Act 1954. The petitioner alleged that she was made subject to continuous torture both physically and mentally over various issues and the opposite party has raised high demand from the petitioner and the family members of the petitioner. The petitioner further alleged that the opposite party used to pick up quarrels on trivial pretexts and it became a routine affair on the part of the opposite party to assault the petitioner on various pretexts.

The petitioner submits that she has no independent source of income and when the torture inflicted upon her by the opposite party became

unbearable she ultimately left her matrimonial home on 8th May 2019 and since then she has taken shelter at her father's house, where she is presently residing.

Thereafter the opposite party filed the aforesaid application under Section 22 of the Special Marriage Act before the Learned Principal Judge, Family Court at Calcutta for restitution of conjugal rights.

On 8th November 2019 the opposite party threatened the petitioner with life consequences, if the petitioner does not agree to return to the opposite party's house, while the petitioner was waiting in the counselor's room at Family Court at Bankshall Court premises in connection with aforesaid Matrimonial Suit No.73 of 2019. Finding no other alternative, the petitioner lodged written complaint on 11th November 2019 at Hare Street Police Station. Subsequently, the petitioner finds that the opposite party filed complaint before the Chief Metropolitan Magistrate, Calcutta against the petitioner, her parents and other family members alleging commission of offence punishable under various provisions of the Indian Penal Code.

Once again, on 7th January 2019 the opposite party lodged another false complain against the petitioner and nine others at Taltala Police Station, which was treated as FIR and after completion of investigation, police submitted final report.

Opposite party also filed a writ application before this High Court for issuance of writ of mandamus

commanding police authorities to ensure the registration of written complaint dated 7th November 2019 and 13th November 2019 as FIR and to investigate the matter and to take steps in accordance with law.

On 4th December 2021 the petitioner filed an application under Section 27 of the Special Marriage Act which is now pending before the learned Fast Track Court No. 1 at Sealdah for dissolution of marriage.

Learned counsel appearing on behalf of the wife/petitioner submits that unless both the aforesaid suits are heard analogously, there is serious chance of conflict of judicial decisions, and as such she prayed for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party raised objection and contended that the proceedings are separate and the petitioner has not put forth any justifiable cause in support of aforesaid transfer. Learned counsel appearing on behalf of the petitioner also denied all the allegations levelled against opposite party and others in the present application by the petitioner/wife. Accordingly he prayed for rejection of the prayer for transfer.

Having considered the facts and circumstances of the case and that the matrimonial suit filed by the petitioner being Matrimonial Suit No.73 of 2019 with prayer for dissolution of marriage is required to be heard along with the Matrimonial suit for restitution of conjugal rights filed by the opposite party/husband under Section

22 of the Special Marriage Act being Matrimonial Suit No.133 of 2021, to avoid conflict of judicial opinion and also considering the fact that the petitioner is an unemployed lady and her inconveniences to attend Family Court at Calcutta as alleged I find this is a fit case where the prayer made by the petitioner is allowed.

Principal Judge, Family Court at Calcutta is hereby directed to withdraw Matrimonial Suit No. 73 of 2019 from the file of learned Principal Judge, Family Court at Calcutta and to transmit the same to the learned District Judge, South 24-Parganas at Alipore within three weeks from date.

Learned District Judge, South 24-Parganas at Alipore in turn will transfer the same to the learned Fast Track Court No.1 at Sealdah within a period of three weeks thereafter, for analogous trial of said Matrimonial suit for conjugal rights along with suit for dissolution of marriage being mat Suit No. 133 of 2021 pending before Fast Track Court no. 1, sealdah

The transferee Court shall serve notice upon both the parties intimating the next date of hearing before proceeding further with the suit and will make every endeavor to dispose of the suit as expeditiously as possible preferably within a period of one year from the receipt of record.

Department is directed to serve a copy of this order to the learned Principal Judge, Family Court at

Calcutta and the learned District Judge, South 24-Parganas at Alipore.

Accordingly, CO 1965 of 2022 is disposed of.

In view of the disposal of the CO 1965 of 2022, connected application being CAN 1 of 2022 shall also stand disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Ajoy Kumar Mukherjee, J.)