

24.02.2022
Item No.8
Ct. No.7
CHC
(disposed of)

**C.O.1838 of 2021
(Physical Hearing)**

**Priyanka Tiwary (Dubey)
Vs.
Chandra Prakash Dubey**

Mr. Arun Singh,
Mr. Protim Chakraborty
...for the petitioner

Mr. Indranuj Dutta,
Mr. Suvajit Ghosh Dastidar,
Mr. Bikram Basak,
Mr. Rahul Ghosal
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of a Matrimonial Suit being No.1080 of 2021, praying for dissolution of marriage, from the court of learned Additional District Judge, Barrackpore, North 24 Parganas to the court of learned Additional District Judge at Sealdah.

Mr. Arun Singh, learned advocate appearing for the petitioner submits that petitioner has been staying apart from her husband for the last four (04) years for some matrimonial differences between the parties. Presently, she has been residing in her parental house. The opposite party/husband is submitted to

be a serving personnel of Air Force. In the meantime, the petitioner/wife has initiated two criminal cases against her husband; one under Section 498A and allied sections and another under Section D.V. Act. Both such criminal cases are pending at Sealdah Court, and in both the cases husband has already ensured his appearance.

As regards the grounds set out in the transfer application; harassment, hardship, long distance to be covered, multiplicity of litigations and financial constraints are canvassed.

It is contended by the petitioner that it would be most disadvantageous for the petitioner to take part in the pending Matrimonial Suit at Barrackpore, undertaking a train journey and also incurring necessary expenses therefor.

Per contra, Mr. Indranuj Dutta, learned advocate appearing for the opposite party/husband submits that there has been suppression of some facts, as previously the petitioner/wife instituted a maintenance proceeding at Barrackpore Court and subsequently, it was withdrawn.

As regards the alleged distance to be covered, Mr. Dutta, learned advocate for the opposite party strenuously argues that distance between Sealdah and Barrackpore is not so high, justifying proposed

transfer because there are availability of several conveyances to commute to Barrackpore, and since the petitioner previously instituted a case under Section 125 Cr.P.C. at Barrackpore Court, the present case should not be withdrawn from the Barrackpore Court and transfer to the proposed place. Upon taking such objections, learned advocate for the opposite party submits that the grounds set out in transfer application are not at all convincing, and rather it is a harassive one.

The allegations raised in this case against the husband is denied by the opposite party revealing vehement objections to that effect.

It goes without saying that the merits of the pending Matrimonial Suit are obviously subject-matter of consideration by the learned trial court, as such, the same cannot be addressed by this Court. The allegation and counter allegation, if there be any, is thus, left to be decided by the learned trial court, while undertaking trial in the Matrimonial Suit.

Admittedly, there are two criminal cases pending against the husband, as referred hereinabove at Sealdah Court, and the opposite party/husband ensured his appearance there. Though the distance between the Barrackpore and Sealdah is not so high, but when there are two other cases pending between

the selfsame parties at Sealdah Court, it would be expedient for the ends of justice to withdraw the pending Matrimonial Suit from Barrackpore Court and transfer it to Sealdah Court.

Sealdah Court is located at such place having suitable connectivity with availability multiple conveyances to reach over there.

Having considered the submission of both sides, and for the reasons discussed hereinabove, the pending Matrimonial Suit, being Matrimonial Suit No.1080 of 2021 be withdrawn from the court of learned Additional District Judge, Barrackpore, and transfer the same to the court of learned Additional District Judge, 2nd Court, Sealdah.

Accordingly, learned Additional District Judge, Barrackpore, North 24 Parganas is directed to transfer the Matrimonial Suit No.1080 of 2021 to the court of learned Additional District Judge, 2nd Court, at Sealdah within three (03) weeks from the date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 16th March, 2022.

The transferee court upon receipt of the case record is directed to proceed with the hearing of this Matrimonial Suit No.1080 of 2021, providing

sufficient opportunity of hearing to either of the parties to this case.

With this direction/observation, the instant transfer application stands disposed of.

Petitioner is at liberty to make communication of this order to both the courts below.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)