

16 25.01.
2022

AGM
RKB
Ct
07

CO 1902 of 2021

(Via Video Conference)

Anushree Mali (Das)
versus
Ranabir Mali

Mr. Sandip Das,
Mr. Kapil Chandra Sahoo,
...For the petitioner.
Mr. N Ghosh Dostidar,
Mr. Pradip Sarkar ... For the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a Matrimonial Suit No. 158 of 2021 from the court of learned Additional District and Sessions Judge, 7th Court, Barasat to the court of learned Additional District Judge, Contai at Purba Medinipur.

Mr. Sandip Das, learned advocate representing the petitioner/wife submits that after being separated from her husband since 23rd March, 2018, the petitioner has been staying in her parental house within district Purba Medinipur. She has no income of her own to support herself. In the meantime, the petitioner has invited a case under Section 12 of the D.V. Act at Contai Court against her husband, and another case under Section 498A I.P.C. and allied sections against her husband at Barrackpore Court.

It is brought to the attention of the court by the learned advocate for the petitioner that steps have already been taken for effecting transfer of the

criminal case under Section 498A from Barrackpore to Court of Contai.

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

Per contra, Mr. N. Ghosh Dostidar, learned advocate appearing for the opposite party submits that the petitioner/wife has purposefully left her matrimonial house for her adulterous involvement with a person staying within the jurisdiction of Purba Medinipore. It is also contended by the learned advocate for the petitioner that in the event of the case being transferred to Contai Court, there is chance of causing his physical harassment and apprehension of his life also. More so, the husband being involved in a contractual service now, attached with Airport Authority, his service will be at a stake. It is also contended that the opposite party/husband has to maintain a child, borne out of their wedlock. In short, learned advocate for the opposite party raises strong objections against the proposed transfer.

Having considered the submissions of the learned advocate for the parties, it appears that the transfer application is the product of matrimonial discord between the parties.

It goes without saying that the merits of the pending matrimonial suit cannot be looked into by this court, which is however, left to be decided by the respective trial court at the time of entering into the trial of this case, with the aid of evidence to be adduced to either of the parties to this case.

In a case like this, the advantages, disadvantages, comparative harassment of the parties are of highest significance. The husband is now under contractual service, and attached with Airport Authority, and at the same time he has to maintain a small child borne out of their wedlock. Such fact incidentally has to be taken in view, while making consideration of the prayer for transfer.

In view of the nature of the dispute raised in this transfer application, a neutral site, an independent location would be the best option, where the court situated over there would suitably address the pending matrimonial dispute between the parties.

Uluberia Court, within Howrah district appears be a neutral site, situated almost medially between the two places, shown to be involved in this case, having suitable connectivity for the availability of multiple conveyances over there, would be the best option in the given context of this case. If the present pending matrimonial suit is transferred to Uluberia Court, where it is expected that the comparative

harassment of the parties may be curtailed to a considerable degree, and in that event there will be no prejudice caused to either of the parties to this case.

For the reasons mentioned hereinabove, the instant transfer application is disposed of, directing learned Additional District Judge and Sessions Judge 7th Court, Barasat, District North 24 Parganas to transfer Mat Suit No. 158 of 2021 to the Court of learned Additional District Judge, First Court Uluberia, District Howrah within six 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 31st March, 2022.

The transferee court upon receipt of the case record is directed to dispose of the pending matrimonial suit with connected interlocutory applications, if any, providing sufficient opportunity of hearing to either of the parties to this case.

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

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)