

S/L 9
09.11.2022
Court No.652
SD

CO 2343 of 2022

Smt. Sumana Chakraborty
Vs.
Sri Abhijit Ghosh

Ms. Madhumita Roy
Mr. Sagnik Chatterjee

...for the Petitioner.

Affidavit of service filed by the petitioner in court today be kept with the record.

It appears from the affidavit of service that the article which was sent to the opposite party, returned as unclaimed.

In spite of service, none appears on behalf of the opposite party in court today.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.319 of 2018 from the Court of learned Additional District Judge, 4th Court, Malda to the Court of learned District Judge, at Barasat, North 24-Parganas.

The petitioner has contended that the petitioner is the married wife of the opposite party and their marriage took place on 22.11.2008. It is alleged by the petitioner that the petitioner after marriage realized that the opposite party is not only alcoholic but also addicted to ganja and other drugs. In spite of petitioner's best effort to keep their conjugal life in order, the opposite party became violent and started

assaulting both physically and mentally due to alcoholism and drug abuse.

The opposite party refused to take responsibility of the petitioner on the plea that he has no such financial ability. As the petitioner was not agreed to terminate her pregnancy, the opposite party inflicted physical and mental torture and forced her to terminate her pregnancy.

It is further alleged that the opposite party is involved in extra marital affairs with multiple women and had taken money from them. The petitioner presently residing at Dum Dum, Kolkata and she is working as Chief Copy Editor in a Bengali newspaper. In the meantime, the opposite party has filed the aforesaid suit for dissolution of marriage in the court of learned District Judge, Malda. Though there is an ancestral house at Malda but after death of the petitioner's father, the petitioner has got no access in the said house and none of the family members of the petitioner is residing at present at Malda.

The petitioner submits that she is suffering from various ailments including pulmonary diseases and her mother who is staying with her also aged about 64 years and suffering from various diseases and totally dependent upon her.

The petitioner further alleged that the opposite party and his brother are constantly threatening the petitioner with dire consequences and for such constant threatening it has become impossible for a lady like petitioner to attend the

court at Malda from Kolkata alone and contest the said suit pending at Malda.

Moreover, the distance between the court at Malda and present residence of petitioner is about 350 kms. and therefore, it is practically impossible for the petitioner to attend each date of hearing of the said suit though petitioner is eger to contest the said suit.

While considering the question of transfer particularly in the proceeding for dissolution of marriage, initiated by husband/opposite party, the disadvantageous situation of the wife cannot be over looked. Here inconvenience caused to a female in travelling to Malda from Kolkata for pursuing said matrimonial suit is much more than the inconvenience that might be caused to the husband. Moreover due to petitioner's alleged fear psychosis and that she has become afraid of stepping into the town of her husband due to threat, it would not be fair or reasonable to compel her to attend the court at her husband's place. I find that it is a fit case where the prayer made by the petitioner is allowed.

Accordingly, the learned District Judge, Malda is hereby directed to withdraw the Matrimonial Suit No.319 of 2018 pending before the learned Additional District Judge, 4th Court at Malda and to transmit the same to the Court of learned District Judge, North 24-Parganas at Barasat within a period of three weeks from the date of communication of the order.

The transferee court shall give fresh notice intimating the next date of hearing upon both the parties before taking up for further proceeding of the suit.

Department is directed to serve a copy of this order to the learned District Judge, Malda as well as the learned District Judge, North 24-Parganas at Barasat.

With these observations, C.O. 2343 of 2022 is disposed of.

There will be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)