

Ct. 22.7
No. 2022
14

C.O. 1990 of 2021

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Sabita Paul
-Versus-
Uttam Paul

Mr. Monish Sen
Ms. Oisani Mukherjee

...For the Petitioner

Mr. Md J. Mondal

...For the Opposite Party

This revisioinal application under Section 24 of the Code of Civil Procedure seeking transfer of a matrimonial suit from the Court of the learned District Judge, North 24-Pargabas at Barasat to the Court of the learned Additional District Judge, First Court at Durgapur, Paschim Bardhaman.

To put briefly, it is stated by the petitioner, Sabita Paul that she was married to the opposite party, Uttam Paul on December 10, 1999 according to Hindu rites and customs. The marriage between them was duly consummated and she out of her wedlock with the opposite party gave birth to a male child on June 21, 2002.

It is alleged by the petitioner that soon after her marriage, the opposite party and her family members inflicted torture on her and ultimately they turned her out of her matrimonial house on September 02, 2019. Getting no other alternative she took shelter at her parental home and now she is residing there.

As against the violence inflicted upon her, the petitioner has brought a proceeding under the Protection of Women from Domestic Violence Act registered as Misc. Case o. 77 of 2020 and this proceeding is now pending in the Court of the learned Additional Chief Judicial Magistrate, Durgapur. Besides, on a complaint made by her in the Court

of the learned ACJM, Durgapur, one Coke Oven Police Station Case No. 17 dated 26.01.2020 under Sections 498A/406/506/323/36 of the Indian Penal Code has been registered against the opposite party. Besides, she has filed a maintenance case under Section 125 of the Code of Criminal Procedure seeking maintenance allowance for her child and herself from the opposite party and this case is pending in the Court of the learned ACJM, Durgapur. By order dated March 02, 2021, learned ACJM, 2nd Court, Durgapur granted maintenance allowance of Rs. 5,000/- per month for the petitioner and Rs. 7,000/- per month for her child.

The petitioner came to know that the opposite party brought a matrimonial suit, being No. 557 of 2021 as against her before the Court of the learned District Judge, North 24-Parganas at Barasat seeking dissolution of their marriage.

The petitioner states that it will be hardship for her to travel a long distance to reach the Court at Barasat from her parental house. Under such circumstances, the petitioner seeks transfer of the matrimonial suit filed by the opposite party.

Learned Lawyer appearing for the petitioner submits that a criminal case under Section 498A/406 of the Indian Penal Code brought by the petitioner against the opposite party is pending in the concerned Court at Durgapur. One maintenance case under Section 125 of the Cr. P.C. and a proceeding under Section 12 of the Protection of Women from Domestic Violence Act against the opposite party are also pending in the concerned Courts at Durgapur.

Learned Lawyer further submits that though the

learned Judicial Magistrate at Durgapur directed the opposite party to pay maintenance allowance to his client, the opposite party paid nothing so far. He submits that the petitioner has no source of income. In such factual scenario, the learned Lawyer seeks that the suit be transferred to the concerned Court at Durgapur.

Learned Lawyer appearing for the opposite party submits that because of the problems created by the petitioner, *local salis* (settlement) took place but it yielded no result. Learned Lawyer further submits that the petitioner left the matrimonial house on her own. He vehemently opposes the prayer for transfer the matrimonial suit made by the petitioner.

What I find from the averments made in the application supported by affidavits and the materials placed on record, one criminal case under Sections 498A/406 of the Indian Penal Code, one maintenance case under Section 125 of the Cr.P.C. and a proceeding under Section 12 of the Protection of Women from Domestic Violence Act brought by the petitioner against the opposite party are pending in the concerned Courts Durgapur, Paschim Bardhaman. As stated in the application, the petitioner has no source of income. Her child is a school going boy. Under such circumstance, a case has been made out by the petitioner that it will be hardship for her to travel a long distance to appear before the Court at Barasat to attend the matrimonial proceeding.

This Court is oblivious that the Hon'ble Apex Court as well as by this Hon'ble High Court in a number of decisions has held that inconvenience of wife should be of paramount consideration while disposing of an application under Section 24 of the Code of Civil Procedure.

Having heard the learned Counsels appearing for the parties and considering the balance of convenience and/or inconvenience of the parties I feel that it will be wise to withdraw the aforesaid matrimonial suit from the Court of the learned District Judge, North 24-Parganas at Barasat and transfer the suit to the Court of the learned Additional District Judge, 1st Court at Durgapur.

In view of the above, the revisional application is allowed.

Let the Matrimonial Suit, being No. 557 of 2021 be withdrawn from the Court of the learned District Judge, North 24-Parganas at Barasat and the suit be transferred to the Court of the learned Additional District Judge, 1st Court at Durgapur, Paschim Bardhaman for disposal.

Learned Additional District Judge, 1st Court at Durgapur, Paschim Bardhaman may dispose of the suit either by himself/herself or transfer the suit to any of the Courts of learned Additional District Judge at the station for disposal.

The learned District Judge, North 24-Parganas at Barasat is directed to transmit the case record of the matrimonial suit to the transferee Court immediately after receipt of a copy of the order.

With the aforesaid direction, C.O. 1990 of 2021 stands disposed of.

There will, however, be no order as to costs.

Let a copy of this order be communicated to both the Courts below for information and compliance.

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

(Rabindranath Samanta, J.)