

06.07.2022

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C.O. 2079 of 2021

Smt. Ankita Sil Sharma

Vs.

Sri Sourav Sil Sharma

Ms. Susmita Saha Dutta

Mr. Niladri Saha

Ms. Pallabi Chatterjee

... For the petitioner

Affidavit of service filed in Court be kept on record.
Despite service of notice upon him, there is no representation on behalf of the opposite party.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a matrimonial suit from the court of the learned Additional District Judge, Fast Track Court at Siliguri, Darjeeling to the concerned court at Raiganj, Uttar Dinajpur.

It is stated by the petitioner, Smt. Ankita Sil Sharma, that her marriage with the opposite party, Sri Sourav Sil Sharma, was solemnised on 13th November, 2017 according to Hindu rites and customs. The marriage between them was duly consummated and out of her wedlock with the opposite party she gave birth to a male child who is now aged about 2½ years.

It is alleged by the petitioner that the opposite party inflicted torture on her and as a result of which, she left her matrimonial home and started residing at her paternal home.

To sustain the livelihood of her child and herself,

she has filed a maintenance case under Section 125 of the Code of Criminal Procedure registered as Misc. Case No.167 of 2021 and this proceeding is pending in the court of the learned Chief Judicial Magistrate, Raiganj at Uttar Dinajpur.

On the allegation of torture on her, the petitioner has filed a complaint registered as C.R. Case No.422 of 2021 under Section 498A, I.P.C. against the opposite party in the court of the learned Chief Judicial Magistrate at Raiganj.

The petitioner came to know that the opposite party filed a matrimonial suit being No.259 of 2021 against her under Section 13 of the Hindu Marriage Act. The suit is now pending in the court of the learned Additional District Judge, Fast Track court, Siliguri.

The petitioner states that the distance between her paternal home and the court at Siliguri is nearly 166 kilometers. Her parents are aged and ill. Her child is too minor. Under such circumstances, it will be hardship for her to appear before the Court at Siliguri to attend the aforesaid matrimonial proceeding. Hence, the prayer for transfer of the aforesaid suit.

Since the opposite party has chosen not to contest the revisional application, it stands that the facts and circumstances as narrated in the application supported by affidavit remain uncontroverted.

What I find, one maintenance case under Section 125 of the Code of Criminal Procedure and a complaint case under Section 498A, I.P.C. filed by the petitioner, are pending in the concerned Court at Raiganj. The petitioner's child is too minor. Her parents are aged and ill.

Having heard the learned Counsel appearing for the petitioner and considering the facts and circumstances as projected by the petitioner in the application, I feel that it will be wise to withdraw the aforesaid matrimonial suit and transfer the suit to the learned District Judge, Uttar Dinakpur at Raiganj.

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

Let the Matrimonial Suit No.259 of 2021 be withdrawn from the court of the learned Additional District Judge, Fast Track Court at Siliguri, Darjeeling and the suit be transferred to the court of the learned District Judge, Uttar Dinajpur at Raiganj, for disposal.

The learned District Judge, Uttar Dinajpur at Raiganj may dispose of the suit either himself or herself or transfer the suit to any of the courts of learned Additional District Judge at Raiganj, Uttar Dinajpur, for disposal.

The learned Additional District Judge, Fast Track Court at Siliguri, Darjeeling is directed to transmit the

case records of the aforesaid suit to the transferee court immediately after receipt of copy of this order.

Let a copy of this order be communicated to both the courts below immediately.

Accordingly, the revisional application being C.O. 2079 of 2021 stands disposed of.

There shall be no order as to costs.

(Rabindranath Samanta, J.)