

28.04.2022
Ct. 21
D/L 9
ab

C.O. 2102 of 2021

Smt. Sudeshna Choubey

-Vs-

Arunabha Acharya

Mr. Amal Kumar Mukherjee,

... for the petitioner

Mr. Pronojit Roy,
Mr. Sekhar Mukherjee,

... for the opposite party

Mr. Amal Kumar Mukherjee, learned advocate appears for the petitioner.

The learned advocate for the petitioner files affidavit of service along with postal receipt and track report showing due service upon the opposite party.

Mr. Pronojit Roy, learned advocate appears for the opposite party.

The application under Section 24 of the Code of Civil Procedure is taken up for hearing.

Heard the learned advocates for the parties.

By filing the present application under Section 24 of the Code of Civil Procedure, the petitioner/wife has prayed for transfer of matrimonial suit being Mat Suit No. 2059 of 2020 filed by the husband/opposite party,

from the Court of learned District and Sessions Judge at Alipore, South 24 Parganas to the Court of the learned District Judge, at Asansol, Paschim Bardhaman primarily on the ground of long distance and the fact that the wife/petitioner has filed a case under Section 125 of the Code of Criminal Procedure being Misc. Case No. 29 of 2021 against husband for maintenance in the Court of learned Chief Judicial Magistrate at Asansol.

It has been contended by the learned advocate for the petitioner that the petitioner/wife has also filed an application under Section 156(3) of the Code of Criminal Procedure under Sections 498A/420/384/120B of the Indian Penal Code against the husband and her other in-laws in the Court of Asansol and she has also filed a case under the Domestic Violence Act and which is also pending in the Court of Asansol and at present, she is living at Asansol with her parents.

It has further been contended by the learned advocate for the petitioner that petitioner/wife is a woman having no source of income of her own to maintain herself and only child of her parents and it would be a physical hardship on her part to travel all the way from Asansol to Alipore to attend each date of hearing of the said matrimonial suit and it would be a financial hardship on her part to engage lawyer to conduct the hearing of the said matrimonial suit at Alipore.

On the other hand, the learned advocate appearing for the opposite party submits that the husband/opposite party too has filed a criminal case under Sections 406/120B of the Indian Penal Code against the wife/petitioner and which is pending in the Court of learned Chief Judicial Magistrate at Alipore and in connection with that case, the wife has to come to Alipore.

On such submission being made by the learned advocate for the opposite party, the learned advocate appearing for the petitioner submits that the husband has filed the said criminal case against wife after the wife/petitioner filed the present case under Section 24 of the Code of Civil Procedure. He also submits that the husband filed the said criminal case in order to harass the petitioner/wife physically and mentally.

Considering the convenience and inconvenience of the parties and the fact that the petitioner/wife is a woman having no source of income of her own and at present, she is living at Asansol with her parents, it would be a great hardship on her part to attend the Court at Alipore all the way from Asansol and to engage a new sets of lawyer at Alipore to conduct the hearing of the case.

Therefore, this Court is of the view that it would be just and proper to transfer the matrimonial suit

being Mat Suit No. 2059 of 2020 to the Court of learned District Judge at Asansol.

Let the matrimonial suit being Mat Suit No 2059 of 2020 be withdrawn from the Court of learned District and Sessions Judge at Alipore and be transferred to the Court of learned District Judge at Asansol, Paschim Bardhaman, who may keep the said suit in his/her own file and may transfer the same to any other Court under his/her Judgeship competent to try and dispose of the said suit.

The learned District and Sessions Judge, Alipore shall transfer the records of Mat Suit No. 2059 of 2020 to the Court of the learned District Judge, Asansol, within a period of 30 days from the date of communication of this order.

The transferee Court shall proceed to dispose of the said suit from the stage at which it has already reached.

The parties shall appear before the learned District Judge, Asansol on 21.05.2022 irrespective of transfer of the records of the said matrimonial suit but only on the basis of sever copy of this order. The learned District Judge, Asansol, shall act on such communication.

The transferee Court is further requested to expedite disposal of the said matrimonial suit in accordance with law.

Accordingly, **C.O. 2102 of 2021** is disposed of.

Interim order, if any, stands discharged.

Connected application, if any, also stands disposed of.

There shall be no order as to costs.

Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Kesang Doma Bhutia, J.)