

21.12.2022
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Ct. no. 652
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C.O. 2670 of 2022

Pinkey Chanda (Dey)
Vs.
Prasenjit Chanda

Mr. Manas Kumar Das ...for the Petitioner

Affidavit of service filed by the petitioner, is taken on record. In spite of service, opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Act VIII case no. 18 of 2022 presently pending before the court of learned District Judge, Paschim Bardhaman at Asansol to the court of learned District Judge, Birbhum at Suri.

The petitioner contended that the petitioner is the legally married wife of the opposite party and their marriage took place four years back under Hindu Rites and Customs. Due to said wedlock, one male child was born who is now under the custody of the petitioner.

The petitioner alleged when the petitioner raised protest against illicit activities of the opposite party, the opposite party had beaten her severally on 18.7.2021 and tried to kill her by strangulation. Thereafter, the petitioner was driven out from her matrimonial home and since then the petitioner is staying in her parent's house with her minor child.

The petitioner submits that opposite party, in the meantime, filed an application for appointment of guardian of said minor child before the learned District Judge, Paschim Bardhaman at Asansol under Section 25 of the Guardians and Wards Act against the petitioner on several grounds which was registered as Act VIII case no. 18 of 2022 and he also filed an application for appointment of interim custody of the child under Section 12 of the said Act.

The petitioner submits that after returning to her parent's house, she initiated a criminal case against the opposite party and the said case is pending before the learned Additional Chief Judicial Magistrate, Rampurhat. The petitioner also initiated a proceeding seeking maintenance for herself and also for her child under Section 125 of the Code of Criminal Procedure in the court of learned Additional Chief Judicial Magistrate, Rampurhat and another proceeding under Section 12 of the Protection of Women from Domestic Violence Act which are also pending in the court of learned Additional Chief Judicial Magistrate, Rampurhat. The petitioner further submits that the opposite party has initiated a matrimonial suit for restitution of conjugal rights being Mat suit no. 402 of 2021 which was pending in the court of learned District Judge, 2nd Court, Asansol. The present petitioner sought for transfer of said Mat suit from the court at Asansol to the court of learned

Additional District Judge, Rampurhat by filing a revisional application before this court being C.O. 2678 of 2022 and this court by an order dated 17.11.2022 was pleased to transfer the said Mat suit filed by the husband/opposite party from the court of Asansol to the court at Rampurhat.

Petitioner further submits that she presently resides in a remote village and distance from her parent's house and the court at Asansol is about 140 kilometres. In order to go Asansol court from her parent's house, firstly she has to go Rampurhat from her village then he has to go to Andul by train and thereafter Andul to Asansol by train or bus and as such it is very difficult for her to attend Asansol court from her father's residence and to go back on the same day. There is none to look after her child and she further apprehends that she will not be able to defend the case in Asansol court for the reason that opposite party and her relatives are very influential in the locality. Accordingly, the petitioner has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and that the matrimonial suit for restitution of conjugal rights and three other proceedings are pending now in the court at Rampurhat where the opposite party/husband would be required to attend and also considering the fact that the child is in custody of the petitioner and also the distance involved between the two

places which is not directly connected by public transportation the prayer made by the petitioner is allowed.

In view of above, learned District Judge, Paschim Bardhaman at Asansol is hereby directed to withdraw the Act VIII case no. 18 of 2022 presently pending before the court of learned District Judge, Paschim Bardhaman at Asansol and to transmit the same to the court of learned District Judge, Birbhum at Suri within a period of three weeks from the date of communication of the order, who in turn will transfer the same to the court of learned Additional District Judge, Rampurhat, Birbhum having jurisdiction to try the suit within a period of three weeks thereafter.

The transferee court shall serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid suit.

The department is directed to send a copy of the order to the learned District Judge, Paschim Bardhaman at Asansol and learned District Judge, Birbhum, Suri.

Accordingly, C.O. 2670 of 2022 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)