

07.04.2022
Ct. 21
D/L 9
ab

C.O. 2331 of 2021

Pinki Kumar Shaw

-Vs-

Prabhu Kumar Shaw

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chattopadhyay,
Mr. Soumen Banerjee,

... for the petitioner

Mr. Pronojit Roy,

... for the opposite party

Mr. Uday Sankar Chattopadhyay, 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 on 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.

The petitioner/wife by filing the present
application under Section 24 of the Code of Civil
Procedure has prayed for transfer of matrimonial suit
being Mat Suit No. 2042 of 2021 from the Court of
learned Additional District Judge, Fast Track Court No.

3, Barasat, North 24 Parganas to the Court of learned District Judge, Purba Bardhaman.

From the submissions made by the learned advocates for the parties and from the materials on record, it appears that at present, the petitioner/wife is residing at her parents house situated at Debnarayan Tewari Lane, within the Police Station- Burdwan in the district of Purba Bardhaman, after being deserted by her husband. That her matrimonial home of the petitioner/wife was/is at Dum Dum within the district of North 24 Parganas.

It has also come on record that the petitioner/wife has filed a case under Sections 498A/406/323/34 of the Indian Penal Code against the husband, which is pending in the Court of learned Chief Judicial Magistrate, Purba Bardhaman.

It has been contended by the learned advocate for the petitioner that the petitioner/wife has no source of income of her own and it would be very physically inconvenient and financially burdensome for her to attend the Court at Barasat all the way from Purba Bardhaman, whereas the opposite party/husband has to appear before the Court of learned Chief Judicial Magistrate, Purba Bardhaman in connection with the criminal case pending against him.

On the other hand, it has been contended by the learned advocate for the opposite party that the

opposite party/husband is a driver, who lives with his ailing mother and it would be very difficult on his part to attend the Court at Purba Bardhaman leaving behind his ailing mother. Therefore, the learned advocate appearing for the opposite party/husband prays for rejection of the application for transfer under Section 24 of the Code of Civil Procedure.

It is an admitted fact that a case under Sections 498A/406/323/34 of the Indian Penal Code is pending against the opposite party/husband in the Court of learned Chief Judicial Magistrate, Purba Bardhaman where his presence is inevitable.

Therefore, considering the convenience and inconvenience of the parties this Court is of the view that opposite party/husband who has to attend the Court at Purba Bardhaman, in connection of pending criminal case against him, then it would not be inconvenient for him to participate in the hearing of the matrimonial suit in the Court of learned District Judge, Purba Bardhaman.

On the other hand, the petitioner/wife, who appears to be a lady having no means, would suffer great hardship if she has to attend the Court at Barasat on each and every date of hearing all the way from Purba Bardhaman.

Therefore, the Mat Suit No. 2042 of 2021 be withdrawn from the Court of learned Additional District

Judge, Fast Track Court No. 3, Barasat, North 24 Parganas and be transferred to the Court of learned District Judge, Purba 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 Additional District Judge, Fast Track Court No. 3, Barasat, North 24 Parganas shall transfer the records of Mat Suit No. 2042 of 2021 to the Court of the learned District Judge, Purba Bardhaman within a period of 30 days from the date of communication of this order.

The parties shall appear before the learned District Judge, Purba Bardhaman on 17.05.2022 irrespective of transfer of the records of the said matrimonial suit but only on the basis of server copy of this order.

The learned District Judge, Purba Bardhaman shall act on such communication.

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

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

Accordingly, **C.O. 2331 of 2021** is disposed of.

Interim order, if any, stands vacated.

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.)