

23.02.2023
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Ct. no. 652

C.O. 3414 of 2022

Soumita Bardhan (Moitra)
Vs.
Biplab Moitra

Ms. Suman Sehanabis (Mondal)

...for the petitioner

Affidavit of service filed by the petitioner
taken on record.

In spite of the service opposite party is not
represented.

This is an application at the instance of the
wife petitioner seeking transfer of matrimonial Suit
No. 349 of 2022 from the court of learned District
Judge at Malda, to the court of Learned District
Judge at Cooch Behar.

Petitioner contended that the petitioner was
married with the opposite party on June 19th, 2017.
The petitioner alleged that few days after marriage
the opposite party and her in laws started
misbehaving with her on several pretexts. They
showed their dissatisfaction towards parents of the
petitioner and their financial status, and also
towards the articles and ornament gifted to the
petitioner by her parents at the time of marriage. It
is further alleged that the opposite party, reasons

best known to him did not accept the petitioner as his lawful wife, although the fact is that the opposite party married the petitioner on his own choice. She further alleged that when the mental torture turned into physical torture the petitioner compelled to leave her matrimonial house within four months from the date of her marriage. The petitioner being a lady having no source of income had to take shelter at her parental house at Cooch Behar. The father of the petitioner aged about 80 years and suffering from different ailments. All of a sudden the opposite party has filed aforesaid suit for dissolution of marriage which is now pending in the court of learned Additional District Judge 5th Court at Malda.

The petitioner accordingly submits that she is the only child of her parents. The distance between Cooch Behar and Malda is more than 376 k.m. and the conveyances from Cooch Behar to Malda are not enough in number and also the journey is not safe for a young lady. She further states that she has no relative in the District of Malda where she can stay overnight and it is not possible for her to go there and return on the same day after attending the said proceeding at Malda. Accordingly it is very difficult for the petitioner to contest the said suit at Malda as also her husband

is an influential person in the Malda District. On the contrary it is not so difficult for the opposite party to attend the matrimonial proceeding at Cooch Behar, comparing with the present situation of the petitioner, and balance of convenience and inconvenience is in favour of the petitioner.

The Supreme Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*** reported in **2022 Live Law SC 627** has laid down

“the cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.”

Since this is husband’s suit seeking dissolution of marriage and considering the distance involved between the two places and also considering petitioners submission that she is an unemployed lady, I am of the view of that if the said proceeding is transferred from Malda court to Jalpaiguri court neither party will face much inconvenience in proceeding with the said suit, considering the geographic location and also the public transportation system prevailing in the area.

In view of above learned District Judge, Malda is hereby directed to withdraw the

matrimonial suit No. 349 of 2020 pending before the court of Additional District Judge 5th Court Malda and to transmit the same to the court of learned District Judge at Jalpaiguri within a period of three weeks from the date of communication of the order. The transferee court shall serve a fresh notice upon both the parties intimating next date of hearing before proceeding further with the suit and will proceed from the stage where it reached till date.

C.O. 3414 of 2022 is accordingly disposed of.

Department is directed to serve a copy of the order to the learned Counsel District Judge Malda and learned District Judge Jalpaiguri.

(Ajoy Kumar Mukherjee, J.)