

S/L 3
07.9.2022
Court No.652
SD

CO 1555 of 2020

Abhishek Chatterjee
Vs.
Piyata Chatterjee (Mukherjee)

Mr. Angshuman Chakraborty
Mr. S.S. Saha

...for the Petitioner.

Mr. Probal Kr. Mukherjee
Ms. Shebatee Datta

...for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure is at the instance of the petitioner seeking transfer of Act VIII Case No.02 of 2020 from the Court of learned District Judge, Paschim Burdwan at Asansol to the Court of learned Additional District Judge, Durgapur.

The petitioner has contended that the petitioner was married with the opposite party on February 3, 2011 in accordance with Hindu rites and customs. The parties are blessed with a female child who was born on November 16, 2011 and the said child is presently under the custody of the mother/opposite party.

The wife/opposite party herein filed an application under Section 125 of the Code of Criminal Procedure before the court of learned Judicial Magistrate, 4th Court, Asansol and also filed an application, under Section 12 of the Protection of Women from Domestic Violence Act being Misc. Case No.339 of 2012 before the learned Judicial

Magistrate, 2nd Court, Asansol. Thereafter, the petitioner filed an application under Section 407 read with Section 482 of the Code of Criminal Procedure before the High Court being CRR 4176 of 2012 and CRR 4049 of 2012 respectively for transfer of said cases to some other court.

By an order dated 05.02.2013, this Court was pleased to allow the prayer of the petitioner and transferred both the cases to the court of competent jurisdiction at Durgapur. It is also mentioned that the petitioner also filed application under Section 407 read with Section 482 of the Code of Criminal Procedure being CRR 3533 of 2013 praying for transfer of the case being Asansol Women Police Station Case No.68 of 2012 dated 12.9.2012 under Section 498A/406/506/34 of the Indian Penal Code and by an order dated 12.12.2014 this Court was pleased to allow the petitioner's prayer and transfer the case to the Court of competent jurisdiction at Durgapur.

The petitioner thereafter filed present application praying for custody of the minor daughter under Section 25 of the Guardians and Wards Act which is now pending before the Court of learned District Judge, Paschim Burdwan at Asansol and prayed for transfer to the Court having jurisdiction in Durgapur.

The reasons assigned by petitioner behind such transfer is that the father-in-law of the present opposite party is an influential lawyer of the Asansol Bar and he abused the petitioner with filthy languages and slapped the

petitioner and had driven him from Asansol Court while the petitioner had gone to Asansol Court to engage a lawyer. Thereafter the petitioner talked with some other lawyer of Asansol Court but everyone refused to represent the petitioner at Asansol Court due to his father-in-law. Thereafter, the petitioner made a written representation before the Officer-in-Charge, Asansol Women Police Station by registered post.

It is submitted that the petitioner cannot attend the learned court below due to the resistance from the father in law of the petitioner who is an influential person at the local bar association and no practitioner at Asansol Court is willing to accept the case to fight on behalf of the petitioner. Petitioner is not getting any legal assistance from the local bar of the Asansol Court and this situation has also been scrutinized by this Court also while dealing with the other cases and accordingly, the High Court has transferred those other cases.

Mr. Probal Kumar Mukherjee, learned senior advocate appearing on behalf of the opposite party, submits that the incident which has referred by the petitioner had alleged to have occurred long back and presently he has engaged a lawyer in the Asansol Court and as such, he does not have any reason to pray for transferring of the said case from the Court of learned District Judge at Asansol to the Court of Durgapur.

On perusal of the order passed by this Court in CRR 3533 of 2013 and CRR 4176 of 2012, it appears that on earlier occasions coordinate Bench of this Court considering the substance of allegation made by the petitioner had transferred the concerned cases from the Court of Asansol to the Court of Durgapur having competent jurisdiction.

Having considered the facts and circumstances of the case and that petitioner is apprehending of not having fair trial and apprehends of unwanted incidents if he stepped into the court at Asansol and that distance between Asansol and Durgapur is not too far, the prayer made by the petitioner is allowed.

The learned District Judge, Paschim Burdwan is hereby directed to withdraw the Act VIII Case No.2 of 2020 from the court of learned District Judge, Paschim Burdwan at Asansol and to transmit the record to the Court of Durgapur having competent jurisdiction for disposal of the case within a period of three weeks from the date of communication of the order.

The transferee court will serve fresh notice upon both the parties before continuance of further proceeding of the said case.

The learned Transferee court is also requested to make every endeavour for expeditious disposal of the case and to conclude the entire proceeding preferably within a period of one year from the date of receipt of the record.

With these observations, C.O. 1555 of 2020 is disposed of.

There will be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)