

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 36 of 2021

Sanghamitra Mohanty

.....

Petitioner

Mr. R.K. Mahapatra, Adv.

Vs.

Bikram Keshori Dhal

.....

Opposite Party

CORAM:

JUSTICE SAVITRI RATHO

ORDER

29.07.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. R.K. Mahapatra, learned counsel for the petitioner.

3. This application under Section 24 read with Section 151 of the C.P.C. has been filed by the petitioner-wife praying for transfer of MAT Case No.53 of 2020 filed by the opposite party-husband under Section 9 of the Hindu Marriage Act, in the Court of the learned Civil Judge (Senior Division), Athgarh, District Cuttack to the Court of the learned Judge, Family Court, Angul.

4. Mr. Mahapatra, learned counsel for the petitioner submits that the marriage of the petitioner and opp. party has been solemnized on 05.02.2017 as per Hindu Rites and Custom, thereafter, she was tortured by her husband and her in-laws for which she suffered a lot and as they did not take care of her or get her treated when she was ill, her father came and got her admitted in Angul Hospital and thereafter she has been residing with her father and has lodged a I.C.C. No.163 of 2017 in the

Court of the learned S.D.J.M., Angul against the opp. party and other in-laws. It was sent to the police station under Section 156(3) Cr.P.C. leading to registration of Angul P.S. Case No. 776 of 2017 corresponding to G.R. Case No. 1967 of 2017 for commission of offences under Sections 498-A/341/342/307/406/506/34 of the I.P.C. read with Section 4 of the D.P. Act. After filing of charge sheet, the case is now pending before the learned S.D.J.M., Angul for trial. He further submits that having no source of income, the petitioner is unable to move from Angul to Athagarh for contesting the case.

5. In view of the nature of the proceeding under Section-9 of the Hindu Marriage Act, and the delay in disposal of the case if it is directed to be transferred, I do not think it is necessary to transfer the case from the Court of the learned Civil Judge (Senior Division), Athagarh, District Cuttack to the Court of the learned Judge, Family Court, Angul. However, in view of the inconvenience which will be faced by the petitioner, if she is compelled to personally appear in the case on each date at Athagarh, I am of the view that interest of justice will be served if the petitioner is permitted to file her response in MAT Case No.53 of 2020 (if not already filed) by way of an affidavit (alongwith an extra copy for the other side) through her counsel or sent through Speed Post with A.D or Registered Post with A.D. addressed to the Registrar, Civil Courts, Athagarh giving her contact number therein within a period of four weeks from today. In case she agrees to join the company of the opp. party, the learned Judge shall finally dispose of the MAT Case No.53 of 2020 by passing appropriate order within a period of four

weeks thereafter. In the event the petitioner is not willing to join the opp. party, the learned Civil Judge (Senior Division), Athagarh shall first make effort for conciliation fixing a suitable date for appearance of both the parties giving enough notice to the petitioner. In the event, the conciliation process does not succeed or the parties do not cooperate, the learned Civil Judge (Senior Division), Athagarh shall conclude the proceeding as expeditiously as possible preferably within one or two dates from the date of failure of the conciliation, if any, without insisting on the appearance of the wife. In the event the petitioner expresses her intention to appear personally and also files an application for payment of travel expenses, the learned Court will consider the same and direct the husband to deposit an appropriate amount which shall be released in favour of the petitioner-wife. In case of her non appearance, the amount will be refunded to the opp. party.

6. The TRP(C) is disposed of with the aforesaid directions.
7. Urgent certified copy of this order be granted as per rules.
8. A copy of this order be sent to the Court of the learned Civil Judge (Senior Division), Athagarh by the Registry, at the earliest.

(SAVITRI RATHO)
JUDGE