

IN THE HIGH COURT OF ORISSA AT CUTTACK
TRP (C) No.259 of 2022

Pankajini Behera

.... ***Petitioner***
Mr.H.Mohapatra, Advocate
Versus

Manoj Kumar Naik

.... ***Opp. Party***

CORAM:
JUSTICE SAVITRI RATHO

ORDER
28.07.2022

Order No.

01.

This matter is taken up by hybrid mode.

2. This application has been filed by the petitioner-wife under Section 24 of C.P.C. for transfer of C.P. No.24 of 2022 filed by the opp. party-husband under Section-13 (1) (i-a) of the Hindu Marriage Act in the Court of learned Judge, Family Court, Jeypore (K), to the Court of learned Judge, Family Court, Puri.

3. Mr.Mohapatra, learned counsel for the petitioner submits that the marriage between the parties had been solemnized on 25.01.2019 and out of their wed-lock, a daughter was born. But on account of demand for dowry, the petitioner was tortured physically and mentally by opp. party who is an alcoholic and he tried to kill the petitioner and he and his family members forcibly took the ornaments of the petitioner and drove her out from the house forcibly keeping her minor daughter. The petitioner was hospitalized and had lodged the F.I.R. against the opp. party which has been registered under Sections 307/498-A of I.P.C. in Jeypore Town Police Station. He further submits that an application under Section-12 of the Protection of Women from Domestic Violence Act, 2005 (in short “PWDV Act”)

has been filed by the petitioner which is pending in the Court of learned J.M.F.C., Nimapara vide Criminal Misc. Case No.14 of 2021, wherein pursuant to issuance of notice, the opp. party has already entered appearance. He further submits that before filing C.P.No.24 of 2022, the opp. party had filed C.P. No.29 of 2020 under Section-9 of the Hindu Marriage Act in the Court of learned Judge, Family Court, Jeypore for transfer of which, the petitioner had filed TRP (C) No.229 of 2021 in this Court. Vide order dated 15.03.2022, this Court had transferred the Civil Proceedings from the Court of learned Judge, Family Court, Jeypore to the Court of learned Judge, Family Court, Puri but the opp. party has withdrawn C.P. No.29 of 2020 and filed the present C.P. No.24 of 2022 for divorce, in order to harass the petitioner. Learned counsel also submits that as the parents of the petitioner are dead, the petitioner is residing in village:Kurujanga in her brother's house along with her minor daughter and they are dependent on him for their maintenance as the opp. party is not maintaining them. As the distance between Kakatpur and Jeypore is more than 550 K.Ms, it is not possible for the petitioner to go to Jeypore to contest the case.

4. Considering the submissions of the learned counsel for the petitioner and keeping in mind the settled position of law that convenience of the wife is normally given more weightage while deciding an application for transfer of a matrimonial case and that keeping the convenience of the petitioner in mind the earlier case-C.P. No.29 of 2020 had been transferred from Jeypore to Puri by this Court and the case under the PWDV Act is pending in Puri, the prayer for transfer is allowed. C.P. Case No.24 of 2022 shall be transferred

from the Court of learned Judge, Family Court, Jeypore (K), to the Court of learned Judge, Family Court, Puri.

5. The learned Judge, Family Court, Jeypore is requested to send the record of C.P. Case No.24 of 2022 to the Court of learned Judge, Family Court, Puri by 12.08.2022. The parties are directed to appear in the Court of the learned Judge, Family Court, Puri on 06.09.2022. In case the opp. party does not appear on 06.09.2022, the learned Judge, Family Court, Puri is directed to issue notice to the opp. party for his appearance. The petitioner is directed to file requisites within a week for communication of this order to the opp. party through Registered/Speed Post with A.D. Both parties shall cooperate for early disposal of the case.

6. The TRP (C) is accordingly disposed of.

7. As the TRP (C) is disposed of without issuing notice to the opp. party-husband, liberty is granted to him to approach this Court for variation/modification of this order in case of utmost necessity.

8. A copy of this order be sent to the Court of learned Judge, Family Court, Jeypore for compliance.

9. Urgent certified copy of this order be granted as per rules.

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Savitri Ratho
Judge