

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 264 of 2022

Puja Prusty

.....

Petitioner

*Mr. J.K. Mohapatra, Adv.
On behalf of Mr. U.C. Mishra, Adv.,*

Vs.

Bijay Kumar Prusty

.....

Opposite Party

CORAM:

JUSTICE SAVITRI RATHO

ORDER

29.07.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. J.K. Mohapatra, learned counsel for the petitioner.

3. This application under Section 24 of the C.P.C. has been filed by the petitioner-wife praying for transfer of C.P. No.33 of 2022 filed by the opposite party-husband under Section 13(1) of the Hindu Marriage Act, in the Court of the learned Judge, Family Court, Puri, to the Court of the learned Judge, Family Court, Bhubaneswar.

4. Learned counsel for the petitioner submits that the marriage of the petitioner and opp. party was solemnized on 07.07.2016 at Balakati, Dist. Khurda and they were blessed with a daughter on 28.03.2017 who is residing with the petitioner. The father of the petitioner complied all the demands of the opp. party and his parents, but the opp. party and his parents harassed and tortured the petitioner demanding more dowry and finally she was driven out from the house of the opp. party on 16.08.2021. Since

then, she is staying at her parent's place at Balakati, Dist. Khurda. Although the distance between Puri and Bhubaneswar is not much but the petitioner has filed Criminal Misc. Case No. 563 of 2021 under Section 12 of the Protection of Women from Domestic Violence Act (in short "the PWDV Act"), which is pending in the Court of the learned J.M.F.C.(O), Bhubaneswar , where the opp party has already entered appearance and filed his reply . Baliana P.S. Case No. 252 dated 16.08.2021 has been registered under Section 498-A/323/506/34 of the I.P.C. read with Section 4 of the D.P. Act against the opp- party and other in laws . The daughter of the petitioner is studying in Nursery School at Baliana and there is no male member in her family to accompany her to Puri as her father is under regular treatment for symptoms of cancer since the last two years. He further submits that as the opp. party is not paying any maintenance to her or her daughter, the petitioner has filed CRP No. 81 of 2022 in the Court of the learned Judge, Family Court, Bhubaneswar in which the opp. party has appeared . He finally submits that C.P.No 33 of 2022 had been fixed for appearance on 27.02.2022 at Puri , but the petitioner could not appear .

5. As the opp party has already appeared in the case under the PWDV Act in Bhubaneswar and in the Criminal Proceeding in the Court of the learned Judge , Family Court , Bhubaneswar , it won't be inconvenient for him if the prayer for transfer is allowed. So keeping in view the settled position of law that the convenience of the wife is of paramount consideration in matrimonial cases and the petitioner has to take care of her five year old daughter who attends school in Baliana , I am convinced

that it would be in the interest of justice if C.P.No. 33 of 2022 pending in the Court of the learned Judge, Family Court, Puri , is transferred to the Court of the learned Judge, Family Court, Bhubaneswar. The prayer for transfer is therefore allowed .

6. The learned Judge, Family Court, Puri is requested to send the record of C.P. Case No.33 of 2022 to the Court of learned Judge, Family Court, Bhubaneswar by 22.08.2022. The parties are directed to appear in the Court of the learned Judge, Family Court, Bhubaneswar on 12.09.2022. In case the opp. party does not appear on 12.09.2022, the learned Judge, Family Court, Bhubaneswar is requested to issue notice to the opp. party for his appearance.

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

8. 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.

9. 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.

10. Issue urgent certified copy as per rules.

Registry is directed to send a copy of this order to the Court of learned Judge, Family Court, Puri forthwith.