

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 265 of 2022

Subhalaxmi Panda

.....

Petitioner

Mr. D. Mishra, Adv.

Vs.

Niranjan Barik

.....

Opposite Party

CORAM:

JUSTICE SAVITRI RATHO

ORDER

29.07.2022

Order No.

02.

This matter is taken up through hybrid mode.

2. Heard Mr. D. Mishra, 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. Case No.150 of 2022 filed by the opposite party-husband under Section 9 of the Hindu Marriage Act, in the Court of the learned Judge, Family Court, Kendrapada to the Court of the learned Judge, Family Court, Sambalpur.
4. Mr. Mishra, learned counsel for the petitioner submits that the marriage of the petitioner and opp. party has been solemnized on 12.06.2018 as per Hindu Rites and Customs and due to torture and ill-treatment by the opp. party, the petitioner came back to Sambalpur and she has lodged the F.I.R. leading to registration of Sambalpur Mahila P.S. Case No. 39 of 2022 against the opp. party and other in-laws for commission of offences under Sections 498-A, 294, 323, 506, 34 of the I.P.C. read with Section 4 of the D.P.Act which corresponds to G.R. Case No.1528 of 2022 in the file of the learned S.D.J.M.,

Sambalpur and in the said case, charge sheet has been submitted against the accused persons. She is facing the financial difficulty as the opp. party is not paying her any maintenance and she has no independent source of income. He further submits that application under Section 9 of the Hindu Marriage Act has been filed by the opp. party-husband with the intention to harass the petitioner. The distance between Kendrapara and Sambalpur is about 300 kms., and the petitioner is apprehending serious danger to her life from the side of the opp. party, if she goes to Kendrapara. He also submits that the case has been posted to 08.07.2022.

5. In view of the nature of the proceeding under Section 9 of the Hindu Marriage Act, I do not think it is necessary to transfer the case from the Court of the learned Judge, Family Court, Kendrapada to the Court of the learned Judge, Family Court, Sambalpur. But keeping in mind the inconvenience which will be faced by the petitioner, if she is compelled to personally appear in the case on each date at Kendrapada and the delay in disposal of the case if it is directed to be transferred to Sambalpur, instead of directing for transfer of the Civil Proceeding to Sambalpur and at the same time keeping the convenience of the petitioner in mind and in order to ensure expeditious disposal of the proceeding, I direct that the petitioner shall be permitted to file her response in C.P. Case No.150 of 2022 (if not already filed) by way of an affidavit through her counsel or sent through Speed Post with A.D or Registered Post with A.D. to the Judge, Family Court, Kendrapada giving her contact number therein within a period

of four weeks from today alongwith a copy of this order. In case she agrees to join the company of the opp. party, the learned Judge Family Court shall finally dispose of the C.P. Case No.150 of 2022 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 Judge, Family Court, Kendrapada shall first make effort for conciliation fixing a suitable date for appearance of both the parties giving enough notice. In the event, the conciliation process does not succeed or the parties do not cooperate, the learned Judge, Family Court, Kendrapada 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 presence of the petitioner is necessary on any date in Kendrapada and she expresses her intention to appear personally and makes an application for payment of expenses for her travel and stay at Kendrapada, the learned Judge, Family Court, Kendrapada shall direct the opp. party to deposit a suitable amount, which shall be released in favour of the petitioner.

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 Judge, Family Court, Kendrapada by the Registry, at the earliest.

