

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP (C) No.442 of 2021

Jogamaya Mishra @ Tripathy

....

Petitioner

Mr.P.P.Parida, Advocate

Versus

Ashok Kumar Tripathy

....

Opp. Party

Mr. S.S.Mohanty, Advocate

CORAM:

JUSTICE SAVITRI RATHO

ORDER

05.09.2022

Order No.

03. This matter is taken up by hybrid mode.
2. This application under Section 24 of C.P.C. has been filed by the petitioner-wife for transfer of C.S. (MAT) Case No.52 of 2021 filed by the opposite party-husband under Section 13 (1) (i-a) of the Hindu Marriage Act, in the Court of the learned Civil Judge (Senior Division), Koraput, to the Court of learned Judge, Family Court, Bhubaneswar.
3. Learned counsel for the petitioner submits that the marriage between the parties have been solemnized on 06.05.2019. After marriage, the petitioner was subjected to torture and ill-treatment by the opp. party and his family members for which she was forced to leave the matrimonial house. She has lodged F.I.R. in Bhubaneswar Mahila Police Station and Bhubaneswar Mahila P.S. Case No.54 of 2020 under Sections 498-A/323/294/354-A/406/34 of I.P.C. read with

Section 4 of the D.P. Act has been registered. As the opp. party did not provide her any maintenance, she has filed Criminal Proceeding No.146 of 2020 in the Court of the learned Judge, Family Court, Bhubaneswar under Section 125 of Cr.P.C. seeking maintenance in which the opp party has appeared. She has also filed an application under Section-12 of the Protection of Women from Domestic Violence Act vide CMC No.450 of 2020 in the Court of learned S.D.J.M., Bhubaneswar wherein the opp. party has already entered appearance and filed show cause. Since the distance between Bhubaneswar and Koraput is more than 400 Kms, it will be very difficult for her to attend the Court at Koraput. As the opp. party has already entered appearance in C.M.C.No.450 of 2020 and in CRP No.146 of 2020, no inconvenience will be caused to him if MAT Case No.52 of 2021 is transferred to the Court of learned Judge, Family Court, Bhubaneswar.

4. Mr. S.S. Mohanty, learned counsel appearing for the opp. party has opposed the prayer for transfer submitting that the opp. party is already facing difficulty and inconvenience as he has to come to Cuttack in the two cases and if the MAT Case is transferred, it will add to his problems.

5. Considering the submission of the learned counsels, the settled position of law that the convenience of the wife is of paramount consideration in a matrimonial proceeding, and as two other cases referred to above are already pending in Bhubaneswar, the prayer for transfer is allowed.

6. The learned Civil Judge (Senior Division), Koraput is directed to transfer the records of C.S. (MAT) Case No.52 of 2021 to the Court of the learned Judge, Family Court, Bhubaneswar by 21.09.2022. The

parties undertake to appear through their counsel in the Court of learned Judge, Family Court, Bhubaneswar on 12.10.2022 and co-operate for expeditious disposal of the proceeding.

7. In order to mitigate the inconvenience which will be faced by the opposite party-husband who has to come to Bhubaneswar from Koraput to attend the cases, the learned Judge, Family Court, Bhubaneswar shall do well to post the aforesaid cases in his Court on the same date and dispose of the proceedings expeditiously.

Liberty is also granted to the opp. party to pray before the learned SDJM, Bhubaneswar for posting CMC No.450 of 2020 on the same date as CRP No.146 of 2020 and the divorce case are posted in the Court of the learned Judge, Family Court, Bhubaneswar.

8. The TRP (C) is accordingly allowed with the aforesaid observations.

9. Urgent certified copy be granted on proper application.

10. Registry is directed to send a copy of this order to the Court of learned Civil Judge (Senior Division), Koraput forthwith, for compliance.

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Savitri Ratho
Judge

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