

S/L 236
28.02.2023
Court No.652
SD

CO 135 of 2023

Dipa Kumari Sah @ Prasad
Vs.
Panchanand Prosad

Mr. Nimai Chandra Konar
Mr. Mihir Kumar Das

...for the Petitioner.

Affidavit of service filed by the petitioner in court today be kept with the record.

In spite of service, opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.602 of 2022 from the Court of learned Additional District Judge, 2nd Court, Durgapur, Paschim Bardhaman to the Court of learned District Judge, Purba Bardhaman.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on 16.4.2019. The petitioner alleged that during her stay at her matrimonial home, the opposite party and his family members became furious and started inflicting physical and mental torture upon the petitioner regularly and further pressurized the petitioner for more dowry.

The petitioner further alleged that thereafter several incidents took place and the petitioner was ultimately driven out from her matrimonial home with her minor daughter on 06.3.2022 and since then she is residing at her father's house at Purba Bardhaman.

The petitioner submits that all of a sudden the opposite party has instituted aforesaid suit for restitution of conjugal rights which is now pending in the court of learned Additional District Judge, 2nd Court, Durgapur. The petitioner contended that the Court at Durgapur situates at a distance of 60 kms. and involves about four hours journey in both ways. She further submits that she has been suffering from tumor and under medical treatment and as such, she is not able to take such journey at a regular interval for a full day.

She further submits that she has no independent income of her own and her minor daughter is fully dependent upon petitioner's parents as the opposite party/husband did not pay any amount of maintenance. The petitioner further submits that she has already initiated a proceeding under Section 125 of the Code of Criminal Procedure being Misc. Case No.48 of 2023 which is pending in the court of learned Chief Judicial Magistrate, Purba Bardhaman where the opposite party/husband would be required to attend and as such, if the aforesaid prayer for transfer is allowed, the husband will not face any inconvenience. Accordingly, she has sought for aforesaid transfer.

Having considered the aforesaid facts and circumstances of the case and that the proceeding under Section 125 of the Code of Criminal Procedure is pending before the Purba Bardhaman Court where the opposite party would be required to attend and that the petitioner is the

custodian of a minor child and that the petitioner is also suffering from different ailments and that the inconvenience caused to a woman in travelling to another station for pursuing the matrimonial suit through public transportation in the socio-economic situation prevailing in the country is much more than the inconvenience that might be caused to the husband/opposite party and that the petitioner is an unemployed lady, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Paschim Bardhaman at Asansol is hereby directed to withdraw the Matrimonial Suit No.602 of 2022 from the Court of learned Additional District Judge, 2nd Court, Durgapur and to transmit the case record to the Court of learned District Judge, Purba Bardhaman within a period of three weeks from the date of communication of the order.

The transferee court shall give fresh notice intimating the next date of hearing upon both the parties before taking up further proceeding of the suit and the transferee court shall proceed with the suit at the stage where it reached till date.

Department is directed to send a copy of this order to the learned District Judge, Paschim Bardhaman at Asansol as well as learned District Judge, Purba Bardhaman immediately.

With these observations, C.O. 135 of 2023 is disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ajoy Kumar Mukherjee, J.)