

18.4.2023
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Ct. no. 652
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CO 686 of 2023

Riya Chakraborty (Banerjee)
Vs.
Debesh Banerjee

Mr. Monish Sen
Ms. Oisani Mukherjee ...for the petitioner

Mr. Partha Pratim Roy ...for the opposite party

Affidavit of service filed by the petitioner is taken on record.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner/wife seeking transfer of Matrimonial suit no. 126 of 2022 presently pending before the court of learned District Judge, Purba Medinipur at Tamluk to the court of learned Additional District Judge, Paschim Barddhaman at Durgapur.

The petitioner contended that the marriage between the parties was solemnised on 29.4.2016. She alleged that immediate after marriage, she was subjected to physical and mental torture on the ground of dowry. She further alleged that she tried her best to adjust and co-exist and to restore her relationship with the opposite party but she was allegedly never treated as a married wife. The petitioner is presently residing at Andal, Paschim Barddhaman.

All of a sudden, the opposite party/husband has filed aforesaid suit seeking dissolution of marriage which is pending in the court of learned District Judge, Purba Medinipur, Tamluk. The petitioner further alleged that the opposite party has filed aforesaid suit in Tamluk court, knowing well that it is not physically possible for the petitioner to attend Tamluk court for conducting the said case as it involves break journeys. The petitioner is an unemployed lady and the court at Tamluk situates far away from her present place of residence and it takes not less than nine hours journey in one way. She further submits that being an unemployed lady, she has initiated a proceeding under Section 125 of the Code of Criminal Procedure which is pending in the court at Durgapur where the opposite party has entered appearance. She further submits that the opposite party presently resides at Bakreswar Tap Bidyut Project (Township) in the district of Birbhum which is only 10 kilometres away from the court at Durgapur and accordingly, if the proposed transfer is allowed, it will not cause inconvenience for him to attend the proceeding at Durgapur court. Accordingly, the petitioner has sought for aforesaid transfer in the interest of justice.

Learned counsel for the opposite party did not raise serious objection about the prayer made by the petitioner.

Having considered the facts and circumstances of the case, the distance involved between the two places and that the proceeding under Section 125 of the Code of Criminal Procedure is pending in Durgapur court where the opposite party would be required to attend and that this is husband's suit seeking dissolution of marriage and as such convenience of the petitioner must get preference and also relying upon the unchallenged averments made in the application that the opposite party/husband presently resides at Bakreswar Tap Bidyut Project (Township) which situates close to the court at Durgapur, the prayer made by the petitioner is allowed.

Learned District Judge, Purba Medinipur, Tamluk is hereby directed to withdraw the Matrimonial suit no. 126 of 2022 presently pending before the court of learned District Judge, Purba Medinipur at Tamluk and to transmit the same to the court of learned District Judge, Paschim Barddhaman at Asansol within a period of three weeks from the date of communication of the order, who in turn, will transmit the same within three weeks thereafter to the court of learned Additional District Judge, Durgapur having jurisdiction to try the same.

The transferee court shall serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid

suit and will proceed from the stage where it reached till date.

The department is directed to send a copy of the order to the learned District Judge, Purba Medinipur, Tamluk and learned District Judge, Paschim Barddhaman at Asansol immediately.

Accordingly, C.O. 686 of 2023 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)