

S/L 296
16.5.2023
Court No.652
SD

CO 727 of 2023

Dipanwita Pal nee Banik @ Dipannita Banik
Vs.
Gopal Chandra Pal

Mr. Dhananjay Banerjee
Ms. Oindrila Ghosh

...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 seeking transfer of Matrimonial Suit No.303 of 2021 from the Court of learned Additional District Judge, Fast Track 1st Court, Purba Bardhaman at Bardhaman Sadar to the Court of learned Additional District Judge, Kalna.

The petitioner contended that the petitioner was married with the opposite party on 18.7.2015 under the Special Marriage Act. The parties are blessed with a female child who was born on 10.8.2017 and the child is presently residing with the petitioner/mother.

The petitioner submits that the petitioner was subjected to physical and mental torture on demand of further money during her stay at her matrimonial home. The petitioner being an unemployed lady has took out an application under Section 125 of the Code of Criminal Procedure which is presently pending before the Kalna Court. The petitioner has also initiated a proceeding under

Section 498A of the Indian Penal Code which is also pending in the Kalna Court. She further submits that the opposite party would be required to attend in both the proceedings pending at Kalna Court.

All of a sudden, the opposite party has instituted aforesaid proceeding seeking dissolution of marriage which is pending before the learned Additional District Judge, Fast Track First Court, Purba Bardhaman. The petitioner submits that the court at Purba Bardhaman situates at a distance of 60 kms. from her present place of residence and she is facing lot of inconvenience in attending the said proceeding at Bardhaman Sadar Court. Accordingly, she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and that the other two proceedings initiated by the petitioner are pending before the Kalna Court where the opposite party would be required to attend and that this is the husband's suit seeking dissolution of marriage and as such, wife/petitioner's convenience must be looked at and that the inconveniences caused to a woman in travelling to another place for pursuing her matrimonial suit, through public transportation in the socio-economic situation prevailing in the country, is much more than the inconveniences that might be caused to the husband/opposite party, the prayer for transfer is allowed.

Accordingly, learned District Judge, Purba Bardhaman is hereby directed to withdraw the Matrimonial Suit No.303 of 2021 from the Court of learned Additional

District Judge, Fast Track First Court at Bardhaman Sadar and to transmit the case record to the Court of learned Additional District Judge, Purba Bardhaman at Kalna within a period of four 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.

Since no affidavit has been sought for from the opposite party, the allegations leveled in the application are deemed to have not been admitted by the opposite party.

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

With these observations, C.O. 727 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.)