

Item No. 3
07.06.2023
Court. No. 19
GB

C.O. 1107 of 2023

Bhaktilata Das
Vs.
Sri Saptarshi Mondal

*Mr. Gunjan Shah,
Ms. Shreya Agarwal*

...for the Petitioner.

Mr. Chiranjib Sinha

...for the Opposite Party.

Affidavit-of-service filed in Court today be kept with the record.

Liberty is granted to the learned advocate on record for the petitioner to correct the cause title.

The petitioner is the wife in Matrimonial Suit No.17 of 2023 which is pending before the learned Additional District Judge, Fast Track 3rd Court at Basirhat, North 24 Parganas. By this application, the petitioner seeks transfer of the matrimonial suit to the Court of the learned Additional District Judge, Baruipur, South 24 Parganas.

The petitioner contends that the marriage was solemnized under the Special Marriage Act, 1954 on June 15, 2020. She was allegedly subjected to cruelty and a criminal proceeding was initiated in Haroa Police Station under Sections 498A/325/406/34 of the Indian Penal Code.

The petitioner is a teacher in a school at Bireswarpur, South 24 Parganas, which is close to Baruipur. The husband is also a teacher in the said school. It is submitted that owing

to the long distance that the petitioner has to travel and also due to the difficulties faced as the care giver of her mother who has been suffering from terminal illness, justice would be sub served if the suit is transferred to the competent court at Baruipur. It is further submitted that as the husband has to travel to Bireswarpur daily, which is close to Baruipur to attend the school, no inconvenience would be caused to the husband if such suit is transferred to the court of the Additional District Judge, Baruipur, South 24 Parganas.

The learned advocate for the opposite party/husband opposes such prayer and submits that the fact that the opposite party was working in a school close to Baruipur and was travelling to the said locality everyday, should not be a ground for transfer of the suit. It is further submitted that the husband resides at Basirhat and it would not be convenient for the husband to attend the court from his place of residence. It is submitted that the transfer cannot be a matter of course, on the prayer of the wife.

Having heard the learned advocate for the respective parties, this Court finds that both the petitioner and the opposite party are working in the same school and they do have to travel to the area which is close to Baruipur, everyday.

For the petitioner to travel from Baruipur to Basirhat to attend the court is rather difficult as she is a working woman and she also has to take care of her mother who is terminally ill. The distance between Basirhat to Baruipur is

around 72 kms and it takes more than two hours to reach the court. The petitioner may be facing inconvenience and difficulty. Maintaining a job, looking after an ailing mother and travelling such a long distance to attend court would be difficult. She also does not have anyone to escort her to the court.

In the decision of ***N.C.V. Aishwarya v. A.S. Saravana Karthik Sha***, reported in **2022 SCC OnLine SC 1199**, the Hon'ble Apex Court held as follows:-

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”

Having considered the rival contentions, this Court is of the view that justice would be sub served if the suit is transferred to a court which is convenient for the petitioner/wife and not too inconvenient for the husband to travel.

Under such circumstances, the application is disposed of with a direction that Matrimonial Suit No.17 of 2023, presently pending before the learned Additional District Judge, Fast Track 3rd Court at Basirhat, North 24 Parganas be transferred to the Court of the learned District Judge at Alipore and the learned District Judge, Alipore shall assign

the matter to any competent bench at Alipore. Such transfer should take place within three weeks from date of communication of this order and accordingly the learned District Judge, Alipore shall assign the matter to any learned courts having jurisdiction and upon considering the business of the Court. Once the suit is transferred, the learned trial court shall make all endeavour to dispose of the matrimonial suit expeditiously.

Accordingly, the application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)