

3.1.2023
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Ct. no. 652
sb

C.O. 1107 of 2022

Puja Biswas
Vs.
Ashik Ikbāl Khan

Mr. Altamash Alim
Mr. Sumit Biswas
Mr. Sarangam Chakraborty
Ms. Rajashree Bhowmick ...for the Petitioner

Affidavit of service filed by the petitioner, is taken on 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 Mat suit no. 133 of 2022 presently pending before the court of learned District Judge, Purba Medinipore at Tamluk to the court of learned District Judge, Alipore, South 24 parganas having jurisdiction.

The petitioner contended that the petitioner was married with the opposite party on 16.2.2021. The Petitioner alleged that the opposite party has driven her from her matrimonial house within three months of their marriage. The petitioner further alleged that she was beaten up and caused bodily injury by her husband/opposite party on demand of dowry and she was mentally traumatised and was forced to convert her religion. The petitioner has already initiated a criminal

proceeding under Section 498A/406/34 of the Indian Penal Code which is pending before the learned Magistrate, Alipore. As a counter blast, opposite party/husband has initiated aforesaid suit for dissolution of marriage in the court of learned District Judge, Purba Medinipore at Tamluk. The petitioner submits that she is eager to contest and defend the said suit but in view of strained relationship and the distance involved between the two places which is more 100 kilometres, the petitioner is facing lot of inconvenience in attending the said court at Tamluk. The mode of transportation is also not very congenial for a lady on consideration of the distance and timings. She further alleged that the strained relationship is persisting between the parties and the past conduct of the opposite party has caused her severe anxiety, mental agony and anguish and in such a mental condition, it is absolutely impossible for her to travel alone and defend said case at Tamluk. The petitioner is suffering from various ailments and is not keeping good health for a considerable period of time. Accordingly, the petitioner has sought for aforesaid transfer.

The petitioner in support of her contention has relied upon a judgment of the Apex court reported in 2022 LiveLaw (SC) 627 (N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha).

Having considered the facts and circumstances of the case and the distance involved between the two places and that the criminal proceeding initiated by the petitioner is pending before the court of learned Magistrate, Alipore, where the opposite party would be required to attend and that the settled principle of law is that in the prevailing socio economic paradigm in the Indian society, generally, it is the wife's convenience, which must be looked at while considering the transfer, I find that this is a fit case where the prayer made by the petitioner is allowed.

In view of above, learned District Judge, Purba Medinipore, Tamluk is hereby directed to withdraw the Mat suit no. 133 of 2022 presently pending before the court of learned District Judge, Purba Medinipore at Tamluk and to transmit the same to the court of learned District Judge, South 24 parganas, Aliopore within a period of three weeks from the date of communication of the order, for disposal.

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

The department is directed to send a copy of the order to the learned District Judge, Purba Medinipore, and learned District Judge, south 24 parganas, Alipore.

Accordingly, C.O. 1107 of 2022 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)