

S/L 5
20.3.2023
Court No.652
SD

CO 1472 of 2022

Manashi Karmakar
Vs.
Subhankar Karmakar

Mr. Debasish Chattopadhyay
Mr. Tirthankar Basu

...for the Petitioner.

Mr. Debasish Chattopadhyay, learned counsel appearing on behalf of the petitioner submits that Mr. Biswajit Tiwari, learned counsel appeared on behalf of the opposite party has refused to accept the notice which was sent in terms of the order dated March 14, 2023.

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.191 of 2022 from the Court of learned Additional District Judge, Fast Track, 2nd Court, Malda to the Court of learned District Judge, South 24 Parganas at Alipore.

The petitioner contended that the petitioner was married with the opposite party on 06.12.2015 according to Hindu rites and customs and the said marriage was subsequently registered on 06.01.2016. The petitioner alleged that after a long smooth conjugal relationship suddenly opposite party started to inflict torture upon the petitioner demanding dowry from her parents.

The petitioner further alleged that with the intention of the second marriage, the opposite party had driven the petitioner from her matrimonial house and for which the

petitioner lodged a general diary at Maheshtala Police Station on March 31, 2022.

After the aforesaid incident, the petitioner along with her minor child again went to her matrimonial home at Malda but the torture increased day by day and on several occasions the opposite party allegedly tried to kill the petitioner by strangulation. Finding no other alternative petitioner along with her minor child left her matrimonial home. Since the petitioner did not get any shelter at her matrimonial home she with the help of Maheshtala Police Station has taken possession at the flat at Maheshtala, which stands in the name of both the parties since 28.4.2022.

In the meantime, the opposite party/husband has filed the aforesaid suit for dissolution of marriage which is now pending in the Court of learned Additional District Judge, Fast Track, Second Court, Malda leveling some false and baseless allegations against the petitioner. Petitioner wants to contest the said proceeding but the distance between the petitioner's present place of residence and Malda is more than 400 kms. Moreover, the petitioner is custodian of a minor child. The opposite party is presently working in Indian Army and presently posted in the State of Rajasthan. The petitioner is facing lot of inconveniences in defending the said case at Malda. Accordingly, she has sought for aforesaid transfer.

Having considered the aforesaid unchallenged facts and circumstances of the case and considering the distance involved between the two places and that the petitioner is

the custodian of a minor child and that the opposite party while attending the said proceeding would be required to come all the way from Rajasthan and that this is the husband's suit for dissolution of marriage and the settled principle of law is that the wife's convenience in such cases must be looked at and that the inconvenience caused to a woman in travelling to another place for pursuing 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 and considering all these the prayer seeking transfer is allowed.

Accordingly, learned District Judge, Malda is hereby directed to withdraw the Matrimonial Suit No.191 of 2022 from the Court of learned Additional District Judge, Fast Track Second Court, Malda and to transmit the case record to the Court of learned District Judge, South 24 Parganas at Alipore 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, South 24 Parganas at Alipore as well as learned District Judge, Malda immediately.

With these observations, C.O. 1472 of 2022 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.)