

S/L 10
27.3.2023
Court No.652
SD

CO 1591 of 2021

Sudipa Bhattacharya
Vs.
Taraknath Chattopadhyay

Mr. Bitasak Banerjee

...for the Petitioner.

Mr. Supriya Sarkar

Mr. Saikat Nag

Ms. Piyasa Mazumdar

...for the Opposite Party.

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.33 of 2020 from the Court of learned Additional District Judge, 2nd Court at Burdwan to the court of learned Additional District Judge, Rampurhat, Birbhum.

Petitioner contended that the she was married with the opposite party according to Hindu rites and customs on February 19, 2019. The petitioner states that after marriage she had gone with her husband in Kerala which was the work place of her husband, where she was subjected to mental torture and harassment by her husband.

She further alleged that on 09.7.2020 she was tortured by her husband and other in laws at her matrimonial house at Burdwan and later her husband suddenly disappeared without informing anything to her and lodged complain against her. The petitioner has also lodged a diary at Burdwan Police Station on 14.7.2020. On 15.7.2020 she was allegedly driven out from her matrimonial

house and since then she is residing at her paternal house and the opposite party is not in touch with the petitioner since then.

The petitioner has annexed certain documents and tried to establish that she had done her level best to continue the matrimonial tie but it did not yield any fruitful result. As such, the petitioner presently under compelling circumstance residing at Rampurhat.

All of a sudden, the husband/opposite party filed aforesaid suit seeking dissolution of marriage which is presently pending before the learned Additional District Judge, 2nd Court, Burdwan. The petitioner states that she feels insecure to travel such a long distance as she has no other person to accompany her.

She further states that the court at Burdwan situates at a distance of 240 kms. from her present place of residence and she is not habituated to make such long journey alone and as such, she is suffering lot of difficulties in attending the said proceeding at Burdwan. Accordingly, she has sought for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party raised objection contending that the distance and time taken for the journey as mentioned in the application for transfer is not correct. Moreover, the husband's difficulties must not be ignored while dealing with such application and if the husband has difficulty to contest the proceeding at a place which is convenient to the wife, that aspect also needs to be looked into.

In this context he further contended that his father-in-law is politically influential person in the locality and if it is transferred in the court at Rampurhat, there is every possibility that his father-in-law and his associates will create hindrance from getting justice from the said court.

The opposite party in support of his contention shown copies of written complaint lodged at Burdwan Police Station on different occasions. He relied upon a judgment of Apex Court in the case of ***Krishna Veni Nagam vs. Harish Nagam***.

Having considered the facts and circumstances of the case and also considering the balance of convenience and inconvenience of both the parties in terms of geographical location and availability of public transportation in the locality and the allegation and counter-allegation as leveled by the parties and that the suit being husband's suit for divorce, wife's convenience is to be looked at, I find that if the case is transferred in the court at Bolpur having jurisdiction neither party will face much difficulties in proceeding further with the suit.

Accordingly, learned District Judge, Purba Bardhaman is hereby directed to withdraw the Matrimonial Suit No.33 of 2020 from the Court of learned Additional District Judge, 2nd Court, Burdwan and to transmit the case record to the Court of learned District Judge, Birbhum at suri within a period of three weeks from the date of communication of the order, who in turn will transfer the same to the court of learned Additional District Judge at

Bolpur having jurisdiction to try the suit within a period of three weeks thereafter.

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, Purba Bardhaman as well as learned District Judge, Birbhum at suri immediately.

With these observations, C.O. 1591 of 2021 is disposed of.

Since the opposite party was not asked to file affidavit-in-opposition, the allegations leveled by the petitioner in the application against opposite party deemed to have not admitted by the opposite party.

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.)