

S/L 5
16.01.2023
Court No.652
SD

CO 2128 of 2022

Mita Biswas (Mondal)
Vs.
Sujit Mondal

Mr. Sharanya Chatterjee
Mr. Nepesh Majhi

...for the Petitioner.

Ms. Pampa Dey (Dhabal)

...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.96 of 2022 pending before the Court of learned Additional District Judge, at Bishnupur to the Court of learned District Judge, South 24 Parganas at Alipore.

The petitioner contended that the petitioner was married with the opposite party in the month of January 2019. The petitioner alleged that the petitioner was tortured by her in laws as well as by the opposite party during her stay at her matrimonial house and she was forced by the opposite party to stay in a rented house in Kolkata and the opposite party therein also misbehaved and tortured the petitioner.

Petitioner further contended that the petitioner is an unemployed lady and for which she has initiated a proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance from the opposite party which is pending before the Alipore Court. In the meantime,

the opposite party has filed the aforesaid suit for dissolution of marriage which is now pending before the learned Additional District Judge at Bishnupur. The petitioner has contended that the Court at Bishnupur situates at a distance of 150 kms. from Kolkata and the petitioner is a single lady and her parents are senior citizens and there is no other member in her family to accompany her.

The petitioner further contended that other proceedings between the parties under Section 125 of the Code of Criminal Procedure is pending before the Alipore Court where the opposite party is attending regularly. Furthermore, the opposite party is an employee of Rubi General Hospital, Kolkata and as such, if the said matrimonial proceeding is transferred to the court at Alipore, the opposite party will have no cause to prejudice. Accordingly, the petitioner has sought for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party vehemently raised objection and contended that the criminal proceeding under Section 498A of the Indian Penal Code initiated by the petitioner is pending before the Bishnupur Court, where the petitioner was to attend on every date and as such, there is no justification to pray for the aforesaid transfer.

Having considered the submissions made by the parties and that the distance involved between the two places and that the petitioner is an unemployed lady and that the proceeding initiated by the petitioner under Section 125 of

the Code of Criminal Procedure is pending before the Alipore Court where the opposite party would be required to attend and that the opposite party is an employee of a hospital in Kolkata and that in such a situation where the opposite party/husband has filed a suit for dissolution of marriage, the convenience of the petitioner is of paramount importance and that inconvenience caused to a female in travelling to another place for pursuing a matrimonial case in socio-economic situation prevailing in country is much more than inconvenience caused to the husband/opposite party, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Bankura is hereby directed to withdraw the Matrimonial Suit No.96 of 2022 presently pending before the Court of learned Additional District Judge, at Bishnupur 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 learned District Judge, South 24 Parganas at Alipore will hear the matrimonial suit or he will be at liberty to transfer the said case to any other court at Alipore, having jurisdiction.

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.

Department is directed to serve a copy of this order to the learned District Judge, Bankura as well as the learned District Judge, South 24 Parganas at Alipore.

With these observations, C.O. 2128 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.)