

31.1.2023
179
Ct. no. 652
sb

C.O. 2630 of 2022

Smt. Susmita Chakraborty
Vs.
Shri Jaybrata Chakraborty

Mr. Soumya Kanti Sinha
Mr. Suparna Das ...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 Civil Procedure Code seeking transfer of the Matrimonial suit being no. 417 of 2020 pending before the court of First Additional District Judge, Howrah to the court of learned District Judge, Paschim Medinipore.

The petitioner contended that the marriage between the parties was solemnised on 2.5.2012 according to Hindu Rites and customs. The petitioner alleged that during her stay at her matrimonial house, she was forced to comply with some illegal demands and when the petitioner protested against such illegal demand of money, she was subjected to both physical and mental torture inflicted by the opposite party and his family members. The petitioner submits that she tried her level best to persuade her husband to lead normal married life but she failed. Subsequently the torture

upon her by the opposite party increased day by day and she further alleged that it became unbearable and finding no other alternative she left her matrimonial home on 25th December, 2019 and started to reside at her paternal home at Godapeasal under Salboni police Station, Paschim Medinipore, since then.

The petitioner further alleged that she has already lodged criminal complain against torture and demand of dowry and the said case is pending before the learned Chief Judicial Magistrate, Paschim Medinipore. She further submits that she is an unemployed lady and as such she has been compelled to initiate a proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance which is also pending in the court of learned Chief Judicial Magistrate, Paschim Medinipore.

The petitioner further submits that all of a sudden, the opposite party has initiated aforesaid suit for dissolution of marriage which is pending in the court of learned District Judge, Howrah. Petitioner's contention is that it is very difficult for the petitioner to attend and contest the said proceeding at Howrah court, which situates at a distance of 152 kilometres by road from her residence and it involves about 4 hours journey. There is no direct train service from Salboni to Howrah and in order to reach Howrah court, she is required to start journey at an early morning. Moreover it is also unsafe

for her to travel alone to reach Howrah court. She has no member in her family to accompany her. She is not acquainted with any advocate practising at the aforesaid court at Howrah and she is not financially sound to take an expert counsel from Paschim Medinipore to Howrah court in order to contest aforesaid matrimonial suit. She is eager to contest the said suit by filing written statement but for the aforesaid reasons, she could not file written statement as yet. Accordingly, she has prayed for aforesaid transfer.

Having considered the facts and circumstances of the case and the distance involved between the two places and that two other proceedings are pending in the court at Medinipore where the opposite party would be required to attend and that in such cases where the husband has filed a suit for dissolution of marriage, the convenience of the petitioner/wife is of paramount importance and that the inconvenience caused to a female in travelling to another place for pursuing her matrimonial suit through public transportation, in the socio economic situation, in our country is much more than the inconvenience caused to the petitioner, the prayer made by the petitioner is allowed.

Learned District Judge, Howrah is hereby directed to withdraw the Matrimonial suit being no. 417 of 2020 pending before the court of First Additional District Judge, Howrah and to transmit the same to the court of

learned District Judge, Paschim Medinipore for disposal within a period of three weeks from the date of communication of the order.

The transferee court shall serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid suit and learned transferee court will continue the proceeding at the stage where it reached till date.

The department is directed to send a copy of the order to the learned District Judge, Howrah and learned District Judge, Paschim Medinipore.

Accordingly, C.O. 2630 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.)