

3.1.2023
213
Ct. no. 652
sb

C.O. 3215 of 2019

Soumika Mondal nee Das
Vs.
Sourav Mondal

Mr. Dhananjoy Banerjee
Ms. Oindrila Ghosh ...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. 3050 of 2018 presently pending before the court of learned Additional District Judge, 10th Court, Alipore to the court of learned Additional District Judge, Kalna having jurisdiction.

The petitioner contended that the petitioner was married with the opposite party on 7.8.2015. The Petitioner alleged that after the marriage the opposite party started inflicting physical and mental torture upon the petitioner on demand of dowry. However, the parties are blessed with a girl child who was born on 5.6.2015. it is alleged that thereafter, the petitioner was driven out from her matrimonial home and the petitioner was constrained to initiate a criminal proceeding against the opposite party under Section 498A of the Indian Penal

Code which is pending before the learned Additional Chief Judicial Magistrate, Kalna. The petitioner further submits that she being an unemployed lady constrained to file an application under Section 125 of the Code of Criminal Procedure seeking maintenance being Misc. case 107 of 2019, which is pending before the court of learned Additional Chief Judicial Magistrate, Kalna and another proceeding under Section 12 of the Protection of Women from Domestic Violence Act is also pending in the court of learned Additional Chief Judicial Magistrate, Kalna. The petitioner further submits that in all those cases the opposite party has appeared and contesting those cases. The petitioner is the custodian of that girl child. In the meantime, the opposite party has filed aforesaid suit for dissolution of marriage which is now pending before the court of learned Additional District Judge, 10th Court, South 24 parganas, Alipore. The distance between petitioner's present residence and the court at Alipur is about 130 kilometres and it takes more than four hours to reach Alipore from Kalna and it is no possible for her to travel such a long distance carrying the child. The opposite party/husband is contesting all the aforesaid proceedings which are pending before Kalna court and is not facing any inconvenience and accordingly, the petitioner has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and that the distance involved between the two places and that the petitioner is the custodian of a four years old child and that other three proceedings initiated by the petitioner are all pending before the Kalna court where the opposite party would be required to attend and that the petitioner is an unemployed lady and in such circumstances, where the opposite party has sought for dissolution of marriage, the convenience of the petitioner/wife is of paramount importance and that inconvenience caused to a female in travelling to another place along with a child for pursuing a divorce proceeding initiated by the husband in socio economic situation prevailing in country, in much more than inconvenience caused to the husband/opposite party, the prayer made by the petitioner is allowed.

In view of above, learned District Judge, South 24 parganas, Alipore is hereby directed to withdraw the Mat suit no. 3050 of 2018 presently pending before the court of learned Additional District Judge, 10th Court, Alipore and to transmit the same to the court of learned District Judge, Purba Bardhaman 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, Kalna having jurisdiction to try the suit within a period of three weeks thereafter.

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, South 24 parganas, Alipore and learned District Judge, Purba Bardhaman at Bardhaman.

Accordingly, C.O. 3215 of 2019 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.)