

29.08.2023
SL.71
Ct no.34
Saswata

CRR 3256 of 2023

In Re:- An application under Section 407 of the Cr.P.C.

In the matter of : **Arindam Ghosh & Ors.**

... petitioners

Mr. Joydeep Bhattacharya

Ms. Labony Ray

...For the petitioners

1. The petitioners have prayed for transfer of proceeding of Misc. Crl. Case no. 1 of 2023, which is a proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (PWDV Act, 2005) and is pending before the jurisdictional Court at Kharagpur.
2. Having regard to the issue so canvassed by the learned advocate for the petitioners that in spite of the opposite party no. 2 residing at Bidhannagore, she is instituting the case within the jurisdiction of the Court at Kharagpur where her paternal home is situated.
3. I am of the view that such issue is a question of fact to be decided whether purposely, intentionally and / or malafidely such case has been instituted and there has been a willful attempt on the part of the opposite party no. 2 to harass the present petitioners.
4. I am of the opinion that having regard to the contentions advanced in the revisional application, the same are to be first adjudicated by a Court of law, where the said Court has territorial jurisdiction to try the case or not.

5. In view of Section 29 of the PWDV Act, 2005 the petitioners would, in the circumstances, first prefer a statutory appeal before the Learned District/Sessions Judge having jurisdiction over the Learned Judicial Magistrate, Kharagpur.
6. No case has been made out before this Court for invoking the jurisdiction under section 407 of the Cr.P.C.
7. The petitioners shall be at liberty to move the appropriate Court as indicated above.
8. With the above directions, the revisional application being CRR 3256 of 2023 is ***disposed of***.
9. Pending application, if any, is also disposed of.
10. Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

(Tirthankar Ghosh, J.)