

13.2.2023
157
Ct. no. 652
sb

C.O. 3529 of 2022

Smt. Titli Mishra Mukherjee
Vs.
Sri Sourav Mukherjee

Mr. Subhro P Lahiri
Mr. R. Naskar ...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 the Matrimonial suit being no. 35 of 2021 pending before the court of learned Additional District Judge, 1st Court, Jhargram to the court of learned District Judge, Paschim Medinipore.

The petitioner contended that the petitioner was married with the opposite party on 6.10.2012. The parties are blessed with a female child who was born on 8th May, 2016. The petitioner alleged that during her stay at her matrimonial house, torture of the husband and in-laws became unbearable and for which she has initiated a criminal proceeding which is pending before the court of learned Additional Chief Judicial Magistrate, Contai and charge sheet has already been submitted against the accused persons. The husband/opposite party is contesting the said proceeding at Contai court. She

further alleged that prior to the present suit, the opposite party instituted another suit being Matrimonial suit no. 834 of 2019 under Section 27 of the Special Marriage Act before the learned District Judge, Paschim Medinipore and in the said suit, the petitioner herein duly participated and contested but subsequently the same was dismissed for non prosecution on 23rd February, 2021. Subsequently, the opposite party/husband has instituted present suit for dissolution of marriage in the court at Jhargram. The petitioner submits that the court at Jhargram situates at a distance of 180 kilometres from the petitioner's residence and there is no direct train from Contai to Jhargram and for which at least two trains are required to be changed and even after that she requires to travel more journey and at least four hours is consumed for one way journey. Accordingly, it is very difficult for the petitioner to attend the said proceeding at Jhargram court. The petitioner is further apprehended that in case of long journey, there is a serious threat of her life and the child of being snatched away by her husband and her in-laws and she further alleged that there were previous such attempts which the petitioner prevented on earlier occasions. The petitioner further alleged that the husband/opposite party is presently serving at Kharagpur which is well connected with Paschim Medimipur and he will not face any

inconvenience in case of transfer and as such she has sought for aforesaid transfer.

The petitioner in support of her contention has relied upon the judgment of **Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap** and also the judgment of **Sumita Singh vs. Kumar Sanjay and Another reported in (2001) 10 SCC 41**, where it was held, it is husband's suit against the wife and therefore convenience of the wife must be looked at.

Having considered the facts and circumstances of the case and that it is a suit for dissolution of marriage initiated by the opposite party/husband and also considering the contention of the petitioner that the opposite party/husband is now posted at Kharagpur which is close to Paschim Medinipore and well connected with Paschim Medinipore and that in such cases, where the suit has been filed by husband for dissolution of marriage, the convenience of the petitioner is of paramount importance and also considering the inconveniences caused to a female in travelling to another distant place for pursuing her matrimonial suit through public transportation, in the socio economic situation prevailing in country, is much more than the inconvenience that might be caused to the opposite party/husband, the prayer made by the petitioner is allowed.

Learned District Judge, Jhargram is hereby directed to withdraw the Matrimonial suit being no. 35 of 2021 pending before the court of learned Additional District Judge, 1st Court, Jhargram and to transmit the same to the court of learned District Judge, Paschim Medinipore 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, Paschim Medinipore and learned District Judge, Jhargram immediately.

Accordingly, C.O. 3529 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.)