

30.01.2024

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SR

C.R.R. 1474 of 2010

In the matter of : Sunita Mishra.

.... petitioner.

Mr. Abhra Mukherjee

Mr. Sauradeep Dutta

Mr. S. Kumar Mondal

.... for the petitioner.

Mr. Hareram Singh

Ms. Shilpa Das

..... for the opposite party nos. 1 to 3.

Mr. Bidyut Kumar Roy

Ms. Sima Biswas

..... for the State.

Mr. Bishwambher Jha

Mr. Harshwardhan Kumar Jha

Ms. Mun Mun Mishra

... for the opposite party no.4.

The instant revisional application has been filed for transfer of the proceedings of the case being B.G.R No.878 of 2010 arising out of Metiabruz Police Station Case No.14 dated 20.02.2010 under Sections 498A/406/34 of the Indian Penal Code pending before the Additional Chief Judicial Magistrate, Alipore to the Court of Chief Judicial Magistrate, Purulia.

The learned advocate for the petitioner/wife submitted that in spite of a decree of divorce obtained by the petitioner/wife on mutual consent, the opposite party did not comply with the conditions mentioned in the compromise petition filed before the

trial court, as stipulated in paragraphs 15 and 16 of the petition dated 19th December, 2011.

The learned advocate for the petitioner further submitted that the opposite party did not pay the maintenance amount, which he was supposed to pay to the petitioner/wife. The petitioner/wife resided in Purulia along with two of her daughters one being a major and the other being a minor. Moreover, the opposite party visited Purulia in connection with a maintenance case pending for disposal at the District Court of Purulia. The petitioner cannot attend the District Court at South 24-Parganas due to inconvenience and, therefore, sought for transfer of the aforesaid B.G.R. Case to the District Court of Purulia, as aforesaid.

The learned advocate for the petitioner/wife further submits that the decree of divorce on mutual consent was obtained only on a paper, as the petitioner/wife was unaware of the consequences thereof and further submitted that the articles concerning her marriage were not returned to her.

The learned advocate for the opposite party submitted that the decree of divorce was obtained by an order no.4 dated 19.12.2011 from the 3rd Court of Additional District Judge, Purulia.

The learned advocate for the opposite party further submitted that the charge-sheet had been filed with regard to the B.G.R. No.878 of 2010 and the witnesses named therein resided within the jurisdiction of South 24-Parganas and it would be inconvenient for them to travel to the District Court of Purulia in order to record their evidence and, therefore, objected to the transfer of the instant

case from the jurisdiction of the District Court of South 24-Parganas to the District Court of Purulia.

On perusal of the documents on record as well as the revisional application it reveals that a divorce on the basis of a joint compromise petition has been obtained by and between the parties. An affidavit-in-chief filed by the petitioner/wife before the 3rd Court of Additional District Judge at Purulia dated 19.12.2011 signed by her mentioned in paragraph 13 as follows: -

“The dependent submits that they have already exchanged their respective articles which they received at the time of marriage and/or thereafter if any and neither party lay any claim over such article in further”.

In paragraph 14 of the aforesaid affidavit-in-chief the petitioner/wife has affirmed as follows: -

“That the dependent submits that it is agreed in between the petitioner that the dependent will not claim any further alimony or maintenance for her in future.”

The petitioner/wife on affirmation had signed the said affidavit-in-chief dated 19th December, 2011, which had been filed in the 3rd Court of Additional District and Sessions Judge, Purulia and also before the aforesaid Court and such affirmation to be denied at this stage cannot be considered, in terms of its necessity.

The learned advocate for the petitioner has time and again urged that the petitioner has been a resident of Purulia and it will not be possible for her to attend the Court within the jurisdiction of South 24-Parganas for the purpose of trial. From the charge-sheet, it is evident that out of eight prosecution witnesses, the petitioner/wife i.e. PW 1 and the prosecution witness no.3 are the residents of Purulia.

The learned advocate for the petitioner did not ventilate any kind of grievance as to the apprehension of an unfair trial to be held within the jurisdiction of South 24-Parganas District Court at Alipore. The evidence to be recorded during the trial by the prosecution with regard to the petitioner can be concluded within the course two consecutive days – which will not cause inconvenience to the petitioner.

The revisional application in the above premises is dismissed.

The trial court is to expedite the process of trial and complete the same preferably within a period of one year without granting any unnecessary adjournment to either of the parties and to conclude the recording of the evidence of PW 1 within the two consecutive days.

Let a copy of this order be communicated to the learned trial court at the earliest to fix the dates for proceedings with the trial for completing the process of trial.

(Ananya Bandyopadhyay, J.)