

14.08.2024
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IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

C.O. 111 of 2024

Smt. Dipti Das Roy
-vs-
Bubai Das

Mr. Mayank Roy
Mr. Sourav Lohari
... for the petitioner.

Mr. Debajit Kundu
... for the opposite party

Affidavit of service filed by the petitioner
is taken on record.

It is submitted on behalf of the petitioner
that the marriage between the petitioner and
the opposite party was solemnized as per
Hindu Rites and Customs on 26th January,
2014. The petitioner alleged that after
marriage she was subjected to ill treatment by
the opposite party and her in-laws. She further
alleged that on 25th August, 2019 she was
forced to leave the matrimonial house as the
opposite party and his family members ousted
her for insufficient payment of dowry. The
petitioner has no source of income at present
and she is striving hard in order to meet her
daily expenses. The opposite party herein all

on a sudden filed the aforesaid matrimonial suit for dissolution of marriage under section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955 on 5.6.2023 before the Court at Jalpaiguri.

Petitioner further submits that the mother of the petitioner died and soon thereafter the father of the petitioner got married to another lady and after getting ousted from her matrimonial house and having no other option, she had to take shelter at her brother's house at Siliguri. She further submits that presently she is facing lot of inconveniences in travelling the distance from Siliguri to Jalpaiguri Court to defend herself in the said case. She at present has no source of income and she is striving hard in order to meet her daily expenses.

Mr. Kundu, learned counsel, appearing on behalf of the opposite party raised strong objection contending that if the prayer made by the petitioner is allowed the opposite party husband will equally face inconveniences in travelling the distances from Jalpaiguri to Siliguri. He further submits that the allegations leveled in the present application are all false and the petitioner herein has

voluntarily left her matrimonial home and as such she cannot take advantage of her own wrong. Accordingly, opposite party has prayed for dismissal of the present application. Opposite party further submits that in the said suit for dissolution of marriage, in paragraph 15 of the plaint he has categorically stated the grounds for divorce.

I have considered the rival contentions. Petitioner's specific case is she has no earning. It is definitely more burdensome to the petitioner not only financially but also mentally to travel the said distance alone.

Apex Court in the case of ***Seema -vs- Rakesh Kumar (2000) 10 SCC 354*** and ***Deepa -vs- Anil Parich (2009) 9 SCC 441*** has considered the aforesaid difficulty of a wife who is facing financial burden and personal inconvenience to attend the case at a distant place. Recently in ***NCV Aishwarya -vs- A.S. Saravan Karthik Sha*** reported in ***2022 Live Law (SC) 627*** Court held that given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

In such view of the matter C.O. 111 of 2024 is allowed.

Learned District Judge, Jalpaiguri, is hereby directed to withdraw the matrimonial suit being Mat. Suit No. 629 of 2023 presently pending before the learned Fast Track Court (2nd) Jalpaiguri and to transmit the same to the Court of learned District Judge, Darjeeling, within a period of three weeks from the date of communication of this order, who in turn, will transmit the same to the Court of learned Additional District Judge, Siliguri having jurisdiction to try the suit within a period of three weeks thereafter. The transferee Court shall proceed from the stage where it reached till date and the transferee Court shall proceed after serving notice upon both the parties intimating next date of hearing.

C.O. 111 of 2024 is accordingly, disposed of.

Since no affidavit-in-opposition was invited from the opposite party the allegations leveled in the present application shall be deemed to have not admitted by the opposite party herein.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties

on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)