

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

**BEFORE:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 156 of 2023

**Dinabandhu Adhya
Vs.
Sarbani Adhya (Dutta)**

For the Petitioner : Ms. Sumitra Das
For the State : Mr. Arijit Ganguly
Hearing Concluded on : September 10, 2025
Judgment on : September 19, 2025

UDAY KUMAR, J.: –

1. The petitioner, Dinabandhu Adhya, has filed this application under Section 407 of the Code of Criminal Procedure, 1973, seeking the transfer of a maintenance proceeding, Misc. Case No. 418 of 2022, from the Court of the Learned Judicial Magistrate, 1st Court at Barasat, to a competent Court in Chinsura, Hooghly. The singular ground advanced for this transfer is the petitioner's claim of hardship due to his 100% visual impairment, which he states makes travel to the Barasat Court extremely difficult.
2. At the outset, this Court must address the non-appearance of the Opposite Party. While initial notice was sent by post and returned with the endorsement "addressee cannot be traced," this Court, in its diligence to ensure the principles of natural justice are upheld, directed

service through the local police. A report from the concerned police station confirms that the Opposite Party was personally informed about the pendency of this matter. Despite this, she has chosen not to appear, and this Court can safely presume that she is aware of the proceedings and has consciously chosen not to contest them. Accordingly, I am compelled to proceed and dispose of the matter based on the materials and arguments placed on record by the petitioner.

3. The undisputed facts are that the petitioner and the Opposite Party, Sarbani Adhya (Dutta), were married on August 05, 2019. It is a matter of record that both parties were fully aware of each other's previous marital status. Subsequently, matrimonial disputes arose, leading the Opposite Party to file a maintenance case under Section 125 of the Cr.P.C. on June 18, 2022, seeking a monthly maintenance of ₹15,000 for herself and ₹10,000 for her son. This proceeding is currently pending before the Judicial Magistrate, 1st Court at Barasat, and is now at a final stage, requiring only a single visit for its conclusion.
4. Ms. Sumitra Das, the learned counsel for the petitioner has vociferously argued that the petitioner's severe disability is a sufficient and legitimate ground to warrant a transfer, as continuing the proceedings in Barasat would amount to an insurmountable obstacle and a violation of the principles of a fair trial.
5. The central question before this Court is whether the petitioner's self-professed inconvenience, based on his disability, is a sufficient and valid ground to warrant the transfer of the maintenance case, especially given

the potential prejudice and further delay such a transfer would cause to the Opposite Party, who is in urgent need of financial support.

6. The power to transfer a criminal case under Section 407 of the Cr.P.C. is a discretionary power vested in this High Court. It must be exercised with circumspection, balancing the convenience of both parties and, most importantly, serving the ends of justice. While the "general convenience of the parties or witnesses" is a valid ground, the convenience of the petitioner alone cannot be the solitary guiding principle, particularly in maintenance cases where the respondent is seeking essential financial support for survival.
7. It is a well-established principle, repeatedly emphasized by the Hon'ble Supreme Court in cases such as *Gayatri Devi v. The State of Bihar* (2014), *Anjali v. Ashok Kumar*, (2009) 11 SCC 353, *Smt. Soma Das v. Gaurab Das*, (2004) 7 SCC 665, *Sumita Singh v. Sanjay Singh* (2001) 10 SCC 41, that the convenience of the wife must be given paramount consideration in maintenance and matrimonial proceedings. This principle is rooted in social justice, recognizing that a financially dependent woman should not be subjected to further hardship by being forced to travel long distances for litigation.
8. Applying these settled legal principles to the present facts, the petitioner's claim of "immense hardship" is belied by his own conduct. It is a matter of record that the petitioner has consistently appeared before the Trial Court at Barasat throughout the proceedings. This fact alone undermines the assertion that the journey to Barasat is an

"insurmountable obstacle." Furthermore, the petitioner's decision to file this revision petition in this High Court in Calcutta, a location geographically more distant from his residence in Chinsura than the Barasat Court, raises serious questions about the bona fides of his plea. If he is capable of travelling to Calcutta to file and prosecute this revision, he cannot credibly claim that travelling to the adjacent town of Barasat for the trial is an undue burden.

9. Granting the transfer at this juncture would result in a *de novo* trial, causing immense and unwarranted delay and severe hardship to the Opposite Party and her son, who are in urgent need of maintenance. This Court finds that the petitioner's conduct appears to be a calculated attempt to use a procedural tool to evade his financial obligations, which constitutes an abuse of the legal process. The balance of convenience, both factually and legally, overwhelmingly lies in favor of the Opposite Party.
10. In view of the foregoing analysis of the facts and the applicable legal principles, I find that the petitioner has failed to make a justifiable case for the transfer of the proceedings. The petition is a dilatory tactic and deserves to be dismissed. While the petitioner's disability is a factor, it is outweighed by his own contradictory conduct, the settled legal principle favouring the wife's convenience, and the risk of causing significant delay and hardship to the Opposite Party and her son. The ends of justice are best served by allowing the Barasat Court to conclude the case expeditiously.

- 11.** Accordingly, the criminal revision petition is dismissed.
- 12.** The Learned Judicial Magistrate, First Court at Barasat, is hereby directed to proceed with Misc. Case No. 418 of 2022 and dispose of it on its merits as expeditiously as possible, preferably within a period of three months from the date of communication of this order.
- 13.** Both parties are directed to cooperate fully with the Trial Court.
- 14.** There shall be no order as to the cost.
- 15.** Interim order/orders, if any, stand vacated.
- 16.** The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.
- 17.** Case Diary, if any, be returned forthwith.
- 18.** Let a copy of this order be sent to the Court of the Learned Judicial Magistrate, 1st Court at Barasat, for information and necessary action.
- 19.** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)