

February 27, 2025

15 ARDR

CRR 3757 of 2024
CRAN 2 of 2025

Krishnendu Das & anr.
Vs.
The State of West Bengal & anr.

Adv. Sanjoy Bose,
Adv. Priyankar Basu Mallick,
Adv. Sayandeep Chanda,

... for the petitioners.

Adv. A. K. Poddar,
Adv. Soham Dutta,
Adv. Anjuli Shaw,

...for the op. no.2.

Affidavit in opposition filed by the private opposite party is taken on record.

Learned counsel for the petitioners submits that the petitioners do not intend to use reply to the said affidavit as pure question of law is involved in the present case. However, since no affidavit in reply is used, the allegations made in the affidavit in opposition are deemed not to be admitted by the petitioners.

By consent of the parties, the revisional application is taken up for consideration along with the application, being CRAN 2 of 2025.

Learned counsel for the petitioners submits that the proceeding before the learned Haldia Court is barred under Section 177 of the Code of Criminal Procedure since the cause of action stated in the complaint arose within the jurisdiction of Kolkata. Also, the petitioners are unable to contest the case before the learned Haldia Court since the local Bar is hostile and the petitioners are not being allowed to represent themselves before the learned trial Court. The petitioners apprehend that they shall not get justice before the Haldia Court. The 2nd petitioner is a

septuagenarian lady and finds it difficult to travel to Haldia from Bishnupur, South 24 Parganas.

Learned counsel for the petitioners places reliance on the authority in *Swaati Nirkhi & ors. vs. State (NCT of Delhi) & ors.* reported in (2011) 11 SCC 163 in support of his contention.

Vehemently opposing the allegations made by the petitioners, learned counsel for the private opposite party submits that it is settled law that where the wife takes shelter after leaving or being driven out from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, the Court under whose jurisdiction the wife resides shall also have the jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the India Penal Code. Learned counsel relies upon the authority in *Rupali Devi vs. State of Uttar Pradesh & ors.* reported in (2019) 5 SCC 384.

It is trite law that the Court under whose jurisdiction the cause of action or part of the cause of action arises shall have the jurisdiction to deal with the complaint. In the case in hand, it appears from the written complaint that part of the cause of action arose at the parental home of the private opposite party at Haldia, Purba Medinipur. Therefore the learned Additional Chief Judicial Magistrate, Haldia has the jurisdiction to try the case and the provisions laid down under Section 177 of the Code is not attracted herein.

On facts, the petitioners apprehend that they shall not get justice before the learned trial Court at Haldia since they are not able to contest the case before the learned Court due to hostile

attitude of the Bar. Learned counsel for the petitioners submits that on every date of hearing, a counsel from Kolkata has to be requested to represent the petitioners before the learned trial Court which is causing extreme hardship to the petitioners.

In order to facilitate fair trial of the case, this Court is of the view that the case pending before the learned Additional Chief Judicial Magistrate, Haldia be transferred to the learned Chief Judicial Magistrate, Paschim Medinipur. The complainant has no objection if the case is transferred to the Paschim Medinipur Court.

Accordingly, CR case no. 236 of 2024 pending before the learned Additional Chief Judicial Magistrate, Haldia be transferred to the learned Chief Judicial Magistrate, Paschim Medinipur.

Learned Additional Chief Judicial Magistrate, Haldia is directed to transmit the case record to the learned Chief Judicial Magistrate, Paschim Medinipur within two weeks from the date of communication of this order.

Learned Chief Judicial Magistrate, Paschim Medinipur shall either deal with the case himself or assign the same to any learned Magistrate within his jurisdiction for disposal.

CRR 3757 of 2024 is disposed of.

As a consequence, the application, being CRAN 2 of 2025 is also disposed of.

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance of all requisite formalities.

(Suvra Ghosh, J.)