

24.02.2025  
31.  
Ct.237.  
**Bd.**

**C.O. 3761 of 2024**

**Anju Sarkar**  
**-Vs-**  
**Sayed Sarkar**

Mr. Tanmay Chowdhury  
Mr. Naban Kumar Paul  
Ms. Rituprita Ghosh      ...for the Petitioner.

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

Opposite party is not represented.

This is an application wherein petitioner has prayed for transfer of Matrimonial Suit No. 47 of 2024 from the Court of learned Civil Judge, Junior Division, 1<sup>st</sup> Court, Malda, to the Court of learned Civil Judge, Junior Division at Jalpaiguri.

Petitioner contended that she was married with the opposite party herein on 4<sup>th</sup> March, 2021 as per Islamic principles and customs. However, the opposite party and his family members were allegedly unhappy and discontented with the amount of articles given by petitioner's father and for which she was subjected to taunts and criticism on a daily basis. It is alleged that the petitioner was treated like maid servants in her matrimonial home and the opposite party was also extremely reluctant to arrange proper medical treatment. It is further alleged that despite suffering immense mental torture, physical cruelty at the hands of the

opposite party and his family members petitioner tolerated all such abuse in the hope that everything would get better with the passage of time. However, since the situation did not improve the petitioner was constrained to file an application under section 12 of the Protection of Woman from Domestic Violence Act, 2005, which is presently pending in the court of Jalpaiguri. She has also initiated a proceeding under section 125 of the Code of Criminal Procedure which is also pending before the Court of learned Chief Judicial Magistrate, Jalpaiguri.

It is further alleged that on a sudden the opposite party/husband in order to evade the duties towards his wife has initiated a matrimonial suit praying for passing decree of restitution of conjugal rights in accordance with the Mohammedan Law which is presently pending before the learned Civil Judge, Junior Division, 1<sup>st</sup> Court, Malda.

Petitioner submits that the distance between her present place of residence from Jalpaiguri and the Court of Malda is about 300 Kms. and normally it takes about seven hours by train and as such she is facing very much difficulty in travelling the said distance alone and to attend the

court proceeding to defend the said suit. She has no income of her own to afford the travelling as well as lodging expenses and travelling alone is becoming very unsafe nowadays since presently there is none to accompany her. On the contrary if the prayer for transfer is allowed opposite party will not face any inconvenience as he has sufficient means to travel to Jalpaiguri. Accordingly petitioner has prayed for aforesaid transfer.

Having heard learned counsel appearing on behalf of the petitioner and also considering the fact that the petitioner has also initiated two other proceedings at Jalpaiguri court where the husband/opposite party would be required to attend and also considering the fact that the inconveniences cause to a woman in travelling to Malda from Jalpaiguri for pursuing aforesaid suit, through public transportation in the socio – economic situation prevailing in the country, is much more than the inconveniences that might be caused to the husband/opposite party, the prayer for transfer is allowed.

C.O. 3761 of 2024 is accordingly allowed.

Learned District Judge, Malda, is hereby directed to withdraw the Matrimonial Suit No. 47 of 2024 from the Court of learned Civil Judge, Junior

Division, 1<sup>st</sup> Court, Malda and transmit it to learned Civil Judge, Junior Division, Jalpaiguri within a period of three weeks from the date of communication of this order, who in turn will allot the said suit before any Civil Judge, Junior Division at Jalpaiguri having competence to hear the said suit within three weeks thereafter. The transferee court shall hear the suit from the stage where it reached till date after giving fresh notice intimating next date of hearing upon both the parties.

Since no affidavit has been sought for from the opposite party, the allegations leveled in the application are deemed to be not admitted by the opposite party.

Department is directed to send a copy of this order to the learned District Judge, Malda and learned District Judge, Jalpaiguri immediately.

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

**(Dr. Ajoy Kumar Mukherjee, J.)**