

Ct. No. 29
210
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19.05
2025

C.O. 3850 of 2024
Sangita Malakar (Mondal)
Vs.
Dipak Malakar

Mr. Subhranil Ray

...For the Petitioner

In spite of service, opposite party is not represented.

This is an application wherein the petitioner has prayed for transfer of Matrimonial Suit No. 527 of 2022 presently pending before the Court of learned Additional District Judge, Howrah to the Court of learned Additional District Judge at Barrackpore, North 24-parganas.

Petitioner's contention is that she was married with the opposite party on 18th June, 2018. However, their matrimonial life was not peaceful and the opposite party herein/husband and her other in-laws have allegedly abused her because of her father's inability to give more money as per their demand and she was allegedly driven out from her matrimonial home on 11.11.2018.

Petitioner states that she has initiated a criminal proceeding, being Jagaddal Police Station Case No. 356 of 2019 on 25th April, 2019, being G.R. Case No. 324 of 2019, which is presently pending before the learned Additional Chief Judicial Magistrate, Barrackpore, where the opposite party/husband would be required to attend. She has also

filed one proceeding under Section 125 Cr.P.C., being M. Case No. 714 of 2019, which is also pending before the Barrackpore Court and opposite party herein has appeared in the said proceeding and contesting.

The husband/opposite party in the meantime has filed aforesaid Matrimonial Suit, being Mat. Suit No. 527 of 2022 seeking dissolution of marriage in the Court of learned Additional District Judge, Howrah. Petitioner submits that on every date of hearing the petitioner has to go to the Howrah Court alone from her present residence at Jagaddal as she has none in her family to accompany her on her way to Howrah Court.

Petitioner further submits that Howrah Court situates at a distance of 40 kms. From her present residence and that she has a fracture in her left ankle and due to such injury, she is facing lot of inconveniences in travelling from Jagaddal to Howrah Court. She further submits that on 13th September, 2024 when she went to Howrah Court to defend herself in the said suit, the opposite party/husband and his associates finding her alone abused and threatened her with dire consequence and were creating pressure upon her to sign the consent paper of mutual divorce instantly.

Therefore, the petitioner apprehends that in case she further travels alone to Howrah Court to contest the

matrimonial proceeding, the opposite party and his associates may attempt to confine the petitioner's free movement and she also apprehends bodily hurt or some grievous injury considering her previous experience that took place in Howrah Court premises and in respect of which a complaint letter dated 14.9.2024 stating said incident has been received by Police on 18.9.2024. In such circumstances, the petitioner has prayed for aforesaid transfer.

It is true that distance alone may not be decisive factor but it has its own role, while considering the convenience of the parties, particularly a wife, who allegedly suffering from ankle deformity problem. That apart two other proceedings initiated between the parties are pending in Barrackpur Court and as such there is no reason why the divorce proceeding be not transferred to Barrackpur Court. Moreover it is well settled that in matrimonial matters generally it is wife's convenience, which must be looked, while considering the transfer. In *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha* (Civil Appeal No. 4894 of 2022, disposed of on 18.7.2022) it was held that prevailing socio-economic paradigm in the Indian Society, generally, it is the wife's convenience which must be looked at while considering transfer. Therefore prayer for transfer is

allowed.

Learned District Judge, Howrah is hereby directed to withdraw the Matrimonial Suit No. 527 of 2022 from the Court of learned Additional District Judge, Howrah and to transmit the case record to the Court of learned District Judge, North 24-Parganas within a period of three weeks from the date of communication of this order. Learned District Judge, North 24-Parganas on receipt of such record, will either dispose of the case by himself or he will transfer it to any competent Court in the said station having jurisdiction for disposal.

The transferee Court shall give fresh notice intimating the next date of hearing upon both the parties before taking up further proceeding of the suit and the transferee Court shall proceed with the suit at the stage, where it reached till date.

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

Department is directed to send a copy of this order to the District Judge, Howrah and District Judge, North 24-Parganas immediately.

With these observations, C.O. 3850 of 2024 and

connected application if any stands disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)