

Ct. 28.11
No. 29
442 2025
bd

C.O. 3921 of 2024

**Mousumi Khatun
Vs.
Obaidur Rahaman**

Mr. Samrat Chakraborty

...For the Petitioner.

Affidavit of service filed by the petitioner is taken on record. In spite of service opposite party is not represented.

This is an application wherein petitioner has prayed for transfer of Act VIII Case No. (Misc. Case No. 195 of 2024) pending before the court of learned District Judge, North 24 Parganas, Barasat to the court of learned Additional District Judge, Jangipur, Murshidabad.

It is submitted on behalf of the petitioner that the petitioner and the opposite party got married under the Muslim Law on 06.04.2013 and they are blessed with a male child. The petitioner's allegation is that due to illegal acts on the part of the opposite party, it was not possible for the petitioner to stay with her husband and since 2023 the petitioner along with her minor is residing at her parental home at Jangipur, Murshidabad. She has also initiated a criminal proceeding under sections 498A/307/120B of the

Indian Penal Code against the opposite party herein which is pending before Chief Judicial Magistrate, Jangipur being Raghunathganj P.S. case no. 226 of 2023, where the opposite party is required to appear and defend. Another FIR no. 254 of 2023 is also pending against him before Additional Chief Judicial Magistrate, Jangipur on the allegation of illegal siphoning of college money, in which case also opposite party would be required to appear before Jangipur Court.

The opposite party herein has initiated the instant proceeding under the Guardians and Wards Act, in the court of District Judge, Barasat only to harass the petitioner and her ward. He submits that under section 9 of the said Act, the jurisdiction of the court shall be where the ward originally resides. The petitioner and the ward are suffering a lot in contesting the said proceeding at Barasat Court since the petitioner is a single mother and she has none in the house of her family to accompany her or her ward for conducting the said proceeding. The Barasat Court situates at a distance of about 230 Kms. (approximately) from her place of residence and

as such she prayed for aforesaid transfer.

From the submissions made by learned counsel for the petitioner, it appears that the ward ordinarily resides with her mother at Jangipur, Murshidabad. The instant proceeding has been initiated by the husband against his wife and therefore the wife's convenience cannot be ignored.

Having considered the facts and circumstances of the case and relying upon unchallenged statements made by the petitioner/wife/mother herein and that the distance involved in between the two places as mentioned above and that at least two other criminal proceedings against the opposite party/husband/father is pending at Murshidabad court where the opposite party would be required to attend and that the inconvenience caused to a woman in travelling to another place through public transportation is much more than the inconvenience that might be caused to the husband/opposite party and therefore balance of convenience and inconvenience leans in favour of petitioner, the prayer for transfer made by the

petitioner is allowed.

Learned District Judge, Barasat is directed to withdraw the Act VIII Case (Misc. Case No. 195 of 2024) presently pending before the court of learned District Judge, North 24 Parganas, Barasat and to transmit the case record within three weeks to the court of learned District Judge, Murshidabad, who in turn, will be at liberty to hear the case taking it in his file or to transmit it to any other competent court having jurisdiction to try the case within Murshidabad District preferably to any court at Jangipur, Murshidabad within a period of three weeks thereafter. The transferee court shall proceed with the case from the stage where it reached till date. The transferee court shall inform both the parties about the next date of hearing before taking up the matter for further hearing.

With these observations, C.O. 3921 of 2024 is disposed of.

Department is directed to send a copy of this order to the learned District Judge, Barasat as well as the learned District Judge, Murshidabad for information.

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.)