

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
[CIRCUIT BENCH AT PORT BLAIR]

PRESENT: THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA

CO/16/2026

K. SANKEETHA ... PETITIONER

VS.

SEVUGA MURTHY ... OPPOSITE PARTY

For the petitioner : Mr. Adarsh Ilango

For the Opposite Party : Mr. K. Sabir

Heard on : 22.04.2026

Judgment on : 22.04.2026

SABYASACHI BHATTACHARYYA, J.

1. The present petition under Section 24 of the Code of Civil Procedure has been filed by the respondent/wife for transfer of a divorce suit filed by the opposite party/husband from the Court of the Additional District Judge, Mayabunder, North and Middle Andaman District, to the Family Court at Port Blair.

2. Learned counsel appearing for the petitioner argues that the parties are separated since October, 2015 and that the opposite party/husband threw out the petitioner from her matrimonial home, upon which the petitioner was constrained to lodge a police complaint. It is alleged that the opposite party-husband expressed his intention before the police authorities not to take back his wife.

3. Subsequently, the petitioner filed a proceeding under Section 144 of the BNSS, 2023 for maintenance, which is now pending before the Family Judge at Port Blair, South Andaman District. It is submitted that the opposite party/husband is contesting the same by appearing in the said proceeding. Thus, it is argued that the opposite party cannot have any inconvenience in attending the matrimonial suit as well, if the same is transferred to Port Blair.

4. Secondly, it is argued that the distance between Port Blair, where the petitioner/wife resides now, and Mayabunder, where the matrimonial suit is pending, is prohibitively long.

5. It is submitted that it is not possible for a person to make a to and fro journey between the two places in a single day. As such, in the event the petitioner has to go to Mayabunder to contest the suit, she would have to stay back at Mayabunder, which is not possible because of dearth of any accommodation suitable to a lone lady in Mayabunder, where the husband resides now, particularly in view of the acrimony between the petitioner and the opposite party.

6. Moreover, the petitioner argues that she would feel utterly insecure if she has to travel the long distance to Mayabunder alone and stay there THE whole night, thereafter returning on the next day, which she will have to do in the event the suit continues at Mayabunder. It is all the more so since her husband, who has turned her out and has filed a divorce suit there, and there is sufficient

apprehension that she may face harassment if she has to go there and reside there alone at night.

7. Also, it is argued that the filing of the proceeding under section 144 of BNSS itself indicates that the petitioner has dearth of funds, which also makes it more difficult for her to travel to and fro between Mayabunder and Port Blair.

8. In support of his contentions, learned counsel for the petitioner cites a judgment of the Hon'ble Supreme Court in the matter of *Kirti Singh vs. Dhananjay Lakshmikant Singh*, where the Hon'ble Supreme Court observed that having regard to the inconvenience that the petitioner/wife was likely to face if the proceedings were continued in the Court of the Civil Judge, Senior Division at Kalyan, Thane, Maharashtra, which was at a distance around 1400 kms from her present place of residence, the interest of justice demanded grant of the wife's prayer for transfer.

9. Learned counsel for the petitioner next cites another judgment of the Hon'ble Supreme Court in *Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi*, reported at 2005(12) SCC 237, where the Hon'ble Supreme Court reiterated that in such type of matters, the convenience of the wife was to be preferred over the convenience of the husband.

10. Learned counsel next cites two coordinate Bench judgments of the same learned Single Judge of this Court, respectively in *Annu Sharma vs. Sri Sanjay Sharma (CO 4569 of 2016)* and *Barnali*

Mazumdar vs. Sri Kalyan Mazumdar (CO 930 of 2019), in support of the self-same contention that the inconvenience of the wife and the distance between the two places is a relevant consideration for considering transfer applications. In *Barnali Mazumdar (supra)*, the learned Single Judge had observed that in a proceeding under Section 24 of the Code of Civil Procedure arising out of a matrimonial suit, paramount consideration is the convenience of the wife, for which the learned Single Judge relied on *Rajani Kishor Pardeshi (supra)* as well as a judgment of this Court in the matter of *Pampa Banerjee vs. Mridul Banerjee*, reported at 2016 (4) CHN Cal 18.

11. Thus, it is argued that the present application be allowed and the divorce suit of the opposite party/husband be transferred to Port Blair.

12. Learned counsel appearing for the opposite party-husband controverts the transfer prayer and submits that the petitioner-husband's aged and ailing mother resides with him at Mayabunder. It is argued that in the event the suit is transferred to Port Blair, all the relevant witnesses, who reside at Mayabunder, including the opposite party's mother, will have to be dragged from Mayabunder to Port Blair, which will be much more inconvenient than the petitioner herself attending the suit by going to Mayabunder.

13. It is further submitted that the petitioner cannot take advantage of the distance, since she is sufficiently educated and

mature, having a B.Sc. Degree in Geography, to traverse such distance to contest the suit.

14. Even otherwise, it is submitted on instruction that the opposite party is willing to bear the travel expenses and the expenses of lodging/boarding of the wife, if required, at Mayabunder.

15. Learned counsel for the opposite party next submits that in order to contest the suit, the petitioner-wife need not travel every time to Mayabunder but may only attend the court at the time of evidence or, if there is an attempt at conciliation, for such limited purpose. Even otherwise, it is argued that the conduct of the said proceeding can be done by the petitioner/wife via video conferencing, which facilities are now available in the District Courts as well.

16. Learned counsel places reliance on a judgment of a learned Single Judge of the Madhya Pradesh High Court in *Smt Ekta Vaish vs. Deepak Kuchbandiya*, where under similar circumstances, the Madhya Pradesh High Court had observed that “now convenience of wife/lady is not the paramount consideration for deciding the transfer applications and alternatives to transfer proceedings have been provided, namely, through video conferencing. If the matter is to be proved by the witnesses of the place where the matter is being prosecuted, then the other side can suitably be adjusted by making payment of commute.”

17. It was further held in the said judgment that since both the FIRs have been lodged by the applicant wife at Narsinghpur against

the respondent-husband for which the applicant had to travel to Narasinghpur to record her statement as well as the fact that an application under Section 9 of the Hindu Marriage Act was filed by the respondent-husband at Family Court, Narsinghpur, therefore, considering the totality of the facts, the matter was disposed of with a direction that the applicant may appear before the Family Court, District Narasinghpur through video conferencing. The Family Court at Narsinghpur was directed to fix a date for examination of the applicant and to direct the respondent/husband to make payment of the expenses of the travel expenses of lodging and boarding.

18. It is submitted that similar orders be passed in the present matter.

19. Learned counsel appearing for the petitioner, in rejoinder arguments, submits that the facts of the Madhya Pradesh High Court judgment were different inasmuch as in the said case, the matrimonial suit filed by the husband was for restitution of conjugal right, as opposed to the present case where a divorce has been sought by the opposite party/husband, thereby making his stand clear that he does not want the wife back. Secondly, in the said case, two FIRs had already been lodged, which would generate criminal trial in the place from which the transfer was sought, as opposed to the present case, where no such fact exists.

20. Learned counsel further reiterates that the issue of security has been mentioned in the transfer application as well as the

financial crunch of the wife is evident from the application of the wife for maintenance under Section 144 BNSS.

21. Prior to adjudicating the matter on merits, it is made clear that since no affidavits have been invited, it is deemed that none of the allegations made in the transfer petition are admitted by the opposite party/husband.

22. On the merits of the case, the petitioner/wife has cited the long distance between Mayabunder, where the matrimonial suit has been filed and the husband is residing, on the one hand and Port Blair, where the petitioner/wife is residing and has filed her maintenance application on the other.

23. Undoubtedly, the distance between the two places is prohibitive and it would require the petitioner-wife to stay overnight at Mayabunder if she were to attend the suit of the husband on any occasion.

24. The argument of the opposite party/husband to the effect that he is agreeable to bear the expenses of travel would not be sufficient guarantee of the safety and security of the petitioner. The educational qualification of the petitioner, *per se*, does not assure the safety of the petitioner, who is a lady, in particular if she has to stay overnight in Mayabunder, where she does not have any accommodation. Staying in an accommodation arranged by the opposite party/husband, in the teeth of the pendency of the divorce proceeding and the allegation of the petitioner/wife that she was unceremoniously turned out of the

matrimonial home (although such allegation is subject to adjudication in the matrimonial proceeding), make it an unfair bargain for the petitioner to be compelled to stay at an accommodation arranged by the opposite party/husband.

25. That apart, although the opposite party offers to bear the travel and lodging expenses of the petitioner for her journey to Mayabunder to contest the suit, it is not the sole determinant of the necessity of transfer.

26. In the present case, the husband has cited his old ailing mother and the fact that all witnesses would have to come to Port Blair, which would be inconvenient, whenever the suit is transferred.

27. However, the same logic which has been cited by the opposite party/husband in respect of the petitioner/wife is equally applicable to the opposite party/husband inasmuch as if video conference provides an adequate alternative, the witnesses cited by the husband in the divorce suit can very well avail of such facility as well at the time of evidence.

28. However, the court takes note of the fact that till date, in these Islands and in the country in general, there remains a social divide insofar as use of internet facilities is concerned. Electricity and trouble-free network connectivity are still not assured given so as to guarantee proper and seamless conduct of deposition by the mode of video conferencing. Despite the facilities being available at both ends insofar as the court complexes are concerned, it cannot be assured

that the proceedings will be smoothly conducted at all levels by video conferencing. Also, there still subsists certain practical issues in respect of cross-examination of witnesses via video conferencing which might come in the way of the petitioner/wife contesting the suit from Port Blair as well as the petitioner/husband conducting the same from Mayabunder.

29. Another factor which is required to be considered is that, as rightly pointed by the petitioner, the husband is in a government employment and has a transferable job. Although he is currently residing at Mayabunder, being posted there, there is no assurance that the opposite party would not be transferred in future to some other place. In such event, the opposite party/husband cannot expect the suit to follow him wherever he goes. Thus, the convenience of the husband and the witnesses gets mitigated by the possibility of future transfer of the husband to other places. As such, the distance between Mayabunder and Port Blair is not such a deterrent to the opposite party, who has a transferable job and may be posted anywhere at any time, as it is to the petitioner.

30. Even otherwise, as consistently held by the Hon'ble Supreme Court in the judgments cited by the petitioner, the inconvenience of the wife, as opposed to that of the husband, has been taken into consideration by the Hon'ble Supreme Court in deciding transfer applications. Even proceeding under the premise that inconvenience of the wife is not a sole factor, keeping in view the distance between

the two places, the court is not confident that it can assure complete security to the wife if she is compelled to contest the suit at Mayabunder (where the husband lives and works) and to stay there overnight for such purpose on occasions. The apprehension of the petitioner in that regard is real and not conjectural.

31. Insofar as the judgment of the Madhya Pradesh High Court is concerned, it is evident from the facts narrated therein that two FIRs were already lodged in Narasinghpur, from where the suit was sought to be transferred, which would lead to criminal trials. As opposed thereto, in the present case, the factual matrix is just the opposite, being that the petitioner/wife has taken out a proceeding under Section 144 of the BNSS which is being contested by the husband, for which he has to come to Port Blair in any event.

32. Thus, keeping on balance the convenience and inconvenience of the parties, the court is of the opinion that instead of compelling the petitioner/wife, a lady, to travel all the way and stay overnight at Mayabunder to contest the suit, it would be more appropriate if the suit is transferred to Port Blair and the opposite party/husband comes to Port Blair, where he is already contesting the wife's maintenance case, to conduct his suit.

33. Taking a cue from the arguments of the opposite party/husband, the personal presence of the husband may only be required at the stage of evidence on only certain dates, which will be within the knowledge of the husband and the husband can

accordingly arrange his business in consonance with such dates. Similarly, the personal attendance of the witnesses will only be required on limited occasions, primarily for the purpose of cross-examination.

34. In view of the above discussions, this court is of the opinion that the petitioner/wife has made out a strong case for transfer of the opposite party/husband's suit from Mayabunder to Port Blair.

35. Accordingly, CO/16/2026 is allowed on contest, thereby directing transfer of Matrimonial Suit No.28 of 2025, pending before the Court of the learned Additional District Judge at Mayabunder, North and Middle Andaman District, from the said court to the Court of the learned Family Judge at Port Blair.

36. The office shall communicate this order to both the aforesaid courts at the earliest, for which special messenger costs shall be put in by the petitioner/wife within a week from date.

37. The trial court records, if lying before this court, be sent down immediately to the Court of the learned Family Judge at Port Blair.

38. There will be no order as to costs.

39. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of usual formalities.

(Sabyasachi Bhattacharyya, J.)