

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.40848 of 2016**

Arising Out of PS.Case No. -334 Year- 2012 Thana -SIWAN COMPLAINT CASE District-  
SIWAN

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Anita Kumari, Wife of Shri Dhananjay Singh, D/o Sri Uma Shankar Shukla, resident of Village-Katalpur, P.S.-Bakunthpur, District-Gopalganj. At present residing at B-129, Housing Colony, Kankarbagh, P.O.-Lohiya Nagar, P.S.-Kankarbagh, District-Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar.  
2. Dhananjay Singh, Son of Sri Mitra Sudan Singh.  
3. Mitra Sudan Singh, Son of Late Bhup Singh.  
4. Malti Devi, Wife of Mitra Sudan Singh.  
All R/o Vill.-Katalpur, P.S.-Baikunthpur, Distt.-Gopalganj.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Krishna Kant Singh

For the Opposite Party/s : Mr. Sunil Kumar Pandey

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI**

**SHARAN SINGH**

**ORAL ORDER**

2      20-12-2016                      Heard the parties.

This application has been filed, under Section 407 of the Code of Criminal Procedure, 1973, seeking transfer of the proceedings arising out of Complaint Case No. 334 of 2012 (Tr. No. 431/2016), registered for the offences punishable under Section 498A read with Section 34 of the Indian Penal Code, from the jurisdiction of learned District & Sessions Judge, Siwan/learned Chief Judicial Magistrate, Siwan, to the jurisdiction of learned District & Sessions Judge, Patna/learned Chief Judicial Magistrate, Patna.



On perusal of the record, I do not consider the ground so taken on behalf of the petitioner to be sufficient for allowing transfer of the case, exercising power under Section 407 of the Code of Criminal Procedure, 1973, in view of the Supreme Court decision, in case of ***Jyoti Mishra Vs. Dhananjaya Mishra, reported in (2010) 8 SCC 803***, paragraph Nos. 5 and 6 of which reads thus:-

*“5. It is true that in cases of dissolution of marriage, restitution of conjugal rights or maintenance, this Court shows much indulgence to the wife and ordinarily transfers the case to a place where it would be more convenient for the wife to prosecute the proceedings. But a criminal case is on a somewhat different footing. The accused may not be able to attend the court proceedings at Indore for many reasons, one of which may be financial constraints, but the consequences of non-appearance of the accused before the Indore Court would be quite drastic.*

*6. Having regard to the consequences of non-appearance of the accused in a criminal trial, we are loath to entertain the petitioner's prayer for transfer. In a criminal proceeding, the right of the accused to a fair trial and a proper opportunity to defend himself cannot be ignored for the convenience of the complainant*



*simply because she happens to be the estranged wife.”*

This application has no merit and is, accordingly,  
dismissed.

**(Chakradhari Sharan Singh, J.)**

Praveen-II/-

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