

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.4079 of 2016

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Anamika @ Munni wife of Shishir Kumar and D/O Late Radha Mohan Prasad Sinha, Resident of Mohalla Bhabha Nagar Bhagwanpur, P.S. Sadar, District Muzaffarpur, at present residing at village Puchhari, P.S. Baniapur, District Saran.

.... Petitioner/s

Versus

Shishir Kumar Son of Sri Shatrughna Singh, Resident of Mohalla Bhabha Nagar Bhagwanpur, P.S. Sadar, District Muzaffarpur, at present residing at Barauni Refinery, Qt. No. E2-55 B.R.T.S. 851117, P.S. Begusarai District Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Opposite Party/s : Mr. Nachiketa Jha

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 25-04-2017

1. Heard Sri Sanjay Kumar Singh, learned counsel for the petitioner and Sri Nachiketa Jha, learned counsel for the opposite party /husband of the petitioner.

2. The petitioner , has filed the present petition under Section 24 of the Code of Civil Procedure, 1908 with a prayer to transfer Matrimonial Case No. 200 of 2016 from the Court of Principal Judge, Family Court, Muzaffarpur to the court of Principal Judge, Family Court, Chapra, Saran. The matrimonial case has been



filed for obtaining decree of divorce. It has been pleaded that marriage of the petitioner with the opposite party was solemnized on 27.6.2003. Thereafter, the petitioner was administered torture due to non-fulfillment of the demand of dowry. It has been pleaded that once the petitioner was tried to burn and finally, she was ousted from her in-laws house. After being ousted she came to her maternal uncle house (Mamahar), since petitioner's parents had already died. After coming to Saran, from the petitioner's side a complaint case was filed vide Complaint Case No. 1581 of 2010 for the offence under Section 498(A), 323, 379 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, 1961 and besides complaint case one maintenance case was also filed by the petitioner and both the cases i.e. maintenance case as well as complaint case is pending in the court at Chapra, Saran. It has been emphatically argued that on the date of filing of the divorce case the opposite party / husband was knowing well that petitioner was residing at her maternal uncle house at Saran and even then the divorce case was filed in the court at Muzaffarpur.

3. Sri Naciketa Jha, learned counsel for the opposite party has vehemently opposed the prayer for transfer. He submits that petitioner is not residing at Saran but she is residing at Muzaffarpur in a house built by her father. He has also argued that petitioner's



daughter is studying in Muzaffarpur itself. He further submits that as per statement made in paragraph no. 3 of the petition itself marriage was solemnized at Muzaffarpur. He submits that the petition is fit to be rejected.

4. In this case earlier Sri Nachiketa Jha, learned counsel for the opposite party had taken time for filing counter affidavit. However, without filing any counter affidavit orally such submission was made that petitioner is residing at Muzaffarpur whereas, on oath petitioner has stated that she after being ousted started living with her maternal uncle at Saran. Moreover, the complaint case as well as maintenance case was filed at Saran much earlier i.e. in the year 2010 and divorce case has been filed in the year 2016.

5. In view of the facts and circumstances particularly the fact that on oath itself the petitioner has stated that she was residing at Saran with her maternal uncle as well as the fact that maintenance case, as stated, is pending at Saran, there is no reason to refuse the prayer for transfer.

6. The petition stands allowed.

7. Let the record of Matrimonial Case No. 200 of 2016 be transferred from the court of Principal Judge, Family Court, Muzaffarpur to the court of Principal Judge, Family Court, Chapra, Saran forthwith.



8. It goes without saying that after receipt of the record at Saran, Chapra the petitioner shall render full co-operation for early disposal of the case.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28-04-2017
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