

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 1031 of 2015

In
Matrimonial Reference No. 5408 of 2014

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Shilpi Kumari @ Shilpi Gupta, W/O Sri Mukesh Kumar, D/o Sri. Kamta Prasad Gupta, R/O Mohalla Chaundi, P.S:- Barh, District:- Patna, at present residing at village Pachhati, P.S:- Bodh Gaya, District Gaya.

.... Petitioner

Versus

Mukesh Kumar, S/O Sri Mahesh Prasad Gupta, R/O village Chaundi, P.S:- Barh, District:- Patna.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Vishal Saurabh

For the Opp. Party/s : Mr. Arjun Prasad Keshri

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 23-03-2017

Heard Sri Vishal Saurav, learned counsel for the petitioner and Sri Arjun Prasad Keshri, learned counsel for the opposite party.

2. The present petition has been filed under Section 24 of the Code of Civil Procedure, 1908, with a prayer to direct for transferring Matrimonial Case No. 5408 of 2014 from the court of Principal Judge Family Court, Patna to the court of Principal Judge, Family Court, Gaya.

3. In this case, by order dated 15-09-2015, while directing for issuance of notice to opposite party/husband of the petitioner, a Bench of this Court had directed for staying further proceeding in the court below. Thereafter, the opposite party has



appeared through Sri Arjun Prasad Keshri, learned counsel and earlier the case was adjourned on the plea that there was possibility of settlement in between the parties.

4. Sri Keshri still insists that steps are being taken to settle the dispute, however; Sri Vishal Saurav, learned counsel for the petitioner, on instruction, submits that there is no possibility of settlement.

5. Short fact of the case is that marriage of petitioner with opposite party was solemnized on 27-06-2010 at Bodh Gaya. After the marriage, when she reached at her matrimonial house, initially she did not feel any difficulty, but subsequently, she was tortured on the plea of non-fulfillment of demand of dowry and dropped to her parents place. From the same wedlock, she was blessed with a male child in the year 2011. Before the delivery had taken place at her parents' place at Gaya, despite best effort, the opposite party did not take care to take her back. Due to such strained relation, from the petitioner's side, a complaint case was filed in the court of learned Chief Judicial Magistrate, Gaya, vide Complaint Case No. 1020 of 2013 for the offence under Sections 498(A), 379, 504, 384 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, 1961, against her husband as well as other family members of the husband. After filing of the complaint case, the husband filed the



divorce case in the court of Principal Judge, Family Court, Patna, which was registered, as Divorce Case No. 5408 of 2014.

6. It was submitted by learned counsel for the petitioner that since marriage of petitioner with opposite party was solemnized at Gaya and even on the date of filing of the divorce case, petitioner was residing at Gaya, in view of provision contained in Section 19 of the Hindu Marriage Act, 1955, the case record is required to be transferred from Patna to Gaya. He further submits that being lady, it would be difficult for the petitioner to regularly attend the proceeding at Patna from Gaya. On aforesaid ground, a prayer has been made for transferring the case.

7. Sri Arjun Prasad Keshri, learned counsel for the opposite party submits that the husband apprehends that if he visits Gaya to participate in the proceeding, he may be killed. According to learned counsel for opposite party, father of the petitioner is running a hotel and there is every possibility that he may be killed by his muscle men and as such, he opposes the prayer for transfer of record from Patna to Gaya.

8. Besides hearing learned counsel for the parties, I have also perused the materials available on record. Fact remains that marriage of petitioner with opposite party was solemnized at Gaya. This fact has not been disputed. Moreover, the petitioner is a lady and



for her, it would be difficult to regularly attend the proceeding at Patna from Gaya.

9. In view of facts and circumstances as well as for the ends of justice, it is desirable to direct for transferring the case from the court of Principal Judge, Family Court, Patna to the court of Principal Judge, Family Court, Gaya.

10. The record of Matrimonial Case No. 5408 of 2014 is directed to be transferred forthwith. This petition is allowed.

11. It is clarified that after receipt of the record at Gaya, the petitioner will render full cooperation for early disposal of the case.

(Rakesh Kumar, J.)

Anay

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.03.2017
Transmission Date	27.03.2017

