

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2609 of 2014

IN

Divorce Case No. 309 of 2012

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Ankita Bharti, wife of Shyam Babu Yadav, daughter of Sachhidanand Yadav, resident of Mohalla – Christan Quarter, Noniya Toli, Ward No. – 7 , P.S. – Bettiah Town , District – West Champaran, at present resident of Mohalla – Krishnapuri, P.S. Kotwali District Munger

.... Petitioner/s

Versus

Shyam Babu Yadav, son of Yamuna Prasad Yadav, resident of Mohalla – Christan Quarter , Noniya Toli, Ward No. – 7 , P.O. & P.S. – Bettiah Town, District - West Champaran

.... opposite party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha

For the opposite party/s : Mr. Akhileshwar Kumar Shrivastava

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 08-05-2017

1. Heard Sri Manoj Kumar Jha, learned counsel for the petitioner and Sri Akhileshwar Kumar Shrivastava, learned counsel who has appeared on behalf of the husband of the petitioner.

2. The petitioner , has approached this Court under Section 24 of the Code of Civil Procedure, 1908 with a prayer to direct for transferring Divorce Case No. 309 of 2012 from the court of Principal Judge, Family Court, Bettiah, West Champaran to the court of Principal Judge, Family Court, Munger.

3. It has been pleaded that petitioner' marriage with opposite party was solemnized on 25.2.2012 and for some time they led peaceful conjugal life but thereafter, she was tortured. It has been



claimed that petitioner was ousted from her matrimonial house within a few months from the date of marriage on 15.4.2012 and thereafter , the petitioner filed a criminal case against her husband and his other family members which was registered as Munger Sadar Mahila P.S. Case No. 40 of 2012 for the offence under Section 498(A)/ 307/ 34 / 504 of the Indian Penal Code and Section 3 / 4 of the Dowry Prohibition Act, 1961. It was argued by learned counsel for the petitioner that after knowing well that petitioner after being ousted from her in- laws house was residing with her old father, who was a Class IV employee in Railway at Munger, the opposite party filed divorce case in the court of Principal Judge, Family Court Bettiah. It has been argued that in view of Section 19 of the Hindu Marriage Act , 1955 since on the date of filing of the suit petitioner was residing at Munger as well as the fact that petitioner is a lady , the opposite party was required to file the suit at Munger not at Bettiah. It has also been argued that being lady it would be difficult for her to regularly attend the proceedings at Bettiah from Munger and as such, a prayer has been to transfer the record from Bettiah to Munger .

4. Sri Akhileshwar Kumar Shrivastava, learned counsel for the husband/ opposite party has vehemently opposed the prayer of the petitioner. By way of referring to the statement made in paragraph



no. 6 and 7 of the plaint filed before the court below vide Divorce Case No. 309 of 2012 it has been argued that petitioner was having illicit relation with her brother- in- law and she voluntarily left the house of her in- laws. He submits that it is not a case that petitioner was ousted from in -laws house . It has further been argued that once the opposite party was assaulted while he had gone to attend the proceedings initiated by the petitioner against her husband. Accordingly, he requests that instead of transferring the case from Bettiah to Munger it may be directed to be transferred to a middle place.

5. Besides hearing learned counsel for the parties, I have perused the materials available on record. So far allegation made in the divorce case is concerned , the court is of the opinion that at this juncture it would not be appropriate for this court to examine the merit of the case. That is required to be examined and adjudicated by the court below itself. So far prayer for transfer of the case is concerned, the court is of the opinion that being lady it would be difficult for her to regularly attend the proceedings from Munger to Bettiah . Moreover, at the time of filing of the suit, it is not in dispute that petitioner was residing with her old father, who is a Class IV employee in the Railways and as such, for the ends of justice as well as appreciating the difficulty of the petitioner being lady, the court



proposes to direct for transferring the record. So far suggestion made by learned consul for the opposite party to transfer the case in between Munger and Bettiah , the court is of the opinion that by this approach the purpose of transferring the case may not be served.

6. Considering the fact that petitioner is wife of the opposite party, it would be difficult for her to regularly attend the proceedings from Munger to Bettiah and as such, for the ends of justice , it is desirable for directing for transferring the record. The petition stands allowed.

7. Let the record of Divorce Case No. 309 of 2012 be transferred from the court by Principal Judge , Family Court , Bettiah, West Champaran to the court of Principal Judge, Family Court , Munger forthwith.

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

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
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