

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3301 of 2016

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Abhiruchi, wife of Amit Kumar Sinha, Resident of Mohalla - Shivajee Nagar, Laliyahi, Katihar, Ward No. - 10, P.S. - Sahayak (Katihar), District - Katihar (Bihar). At present residing with her father Sudhesh Kumar in the house of Kumar Abhilekh, Opposite Muktinath Temple at Mohalla - Ramdayalu Nagar, Muzaffarpur, P.S. Kazi Mohammadpur, District - Muzaffarpur.

.... Petitioner

Versus

Amit Kumar Sinha s/o Anil Kumar Sinha, Resident of Mohalla - Shivajee Nagar, Laliyahi Katihar, Ward No. 10, P.S. - Sahayk (Katihar), District - Katihar (Bihar).

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Pandey Bipul Kumar, Advocate
For Opposite Party : Mr. Sanjeev Kumar
Mr. Chandan Kumar Singh,
Mr. Deepak Kumar, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-06-2017

Heard learned counsel for the petitioner as well as learned counsel for the opposite party.

2. The present petition has been filed for transfer of Matrimonial Case No. 235 of 2016 pending in the court of the learned Principal Judge, Family Court, Katihar to the Court of learned Principal Judge, Family Court, Muzaffarpur.

3. The short facts of the case, according to the petitioner, are that the parties have married on 09.12.2010 at Muzaffarpur as per Hindu rites and customs whereafter the petitioner went to her *Sasural* on the next day. However, the petitioner was ill-treated and tortured



by the opposite party and his step-mother and was even beaten by the opposite party and his family members. In due course, on 18.11.2014 the petitioner gave birth to a girl child which further aggravated the situation and torture of the petitioner increased. On 08.05.2015 the petitioner's *Stridhan* was taken away from her by the opposite party and his step-mother and the petitioner was forced to leave her *Sasural*, upon which she was taken back by her parents to reside with them at Muzaffarpur.

4. Learned counsel for the petitioner submits that consequent upon harassment and torture suffered by her at matrimonial home, she has filed Complaint Case No. 1193 of 2016 under Sections 498A and 379 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act as well as Maintenance Case No. 208 of 2016 under Section 125 of the Code of Criminal Procedure against the opposite party, both of which are pending at Muzaffarpur. It is submitted that the petitioner is a house-wife without having any property of her own and independent source of income to maintain herself and her female child. She is residing with her old parents at Muzaffarpur and there is none to accompany her to contest the matrimonial case at Katihar, more than one hundred kilometers away, which has been filed by the opposite party for restitution of conjugal right. Having suffered torture at the hands of the opposite party and his family members, she apprehends threat to her life and to her little



daughter at Katihar.

5. Learned counsel for the opposite party appears and has been heard. It is submitted that the two cases filed by the petitioner are subsequent to the matrimonial case filed by the opposite party for restitution of conjugal rights. As a matter of fact, it was the petitioner who had deserted the opposite party without adequate reason. As regards the transfer of the matrimonial case from the court at Katihar to the court at Muzaffarpur, however, there is no serious objection to the said prayer.

6. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the petition. It is not in dispute that the petitioner is a lady without having any property of her own and independent source of income. It is also not in dispute that she has a small girl child aged about two years to take care of. It is also not in dispute that the two cases filed by the petitioner are already pending at Muzffarpur in which the opposite party would be required to attend the court in order to contest the same.

7. Having regard to the balance of convenience of the parties which clearly tilts in favour of the petitioner, this Court directs transfer of Matrimonial Case No. 235 of 2016 filed at the instance of the opposite party from the Court of learned Principal Judge, Family Court, Katihar to the Court of learned Principal Judge, Family Court,



Muzaffarpur for its disposal.

8. The present petition stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.06.2017
Transmission Date	N.A

