

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.143 of 2014

In
Matrimonial Reference No. 109 of 2013

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Chandani Devi Wife Of Chandeshwar Kumar Rai, Resident Of Village -
Khajraitha, Police Station - Parwatta, District - Khagaria, Presently
Residing At C/o Bhubneshwar Sharma, Village Parsa, Police Station - Jay
Nagar, District - Madhubani

.... Petitioner/s

Versus

Chandeshwar Kumar Rai @ Moti Son Of Ballabh Prasad Rai Resident Of
Village - Khajraitha, P.S. - Parbatta, District - Khagaria

.... opposite party /s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh

For the opposite party /s : Mr. Dhananjay Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

9 14-02-2017 Heard Sri Manoj Kumar Singh , learned counsel for the

petitioner and Sri Dhananjay Kumar Pandey, learned counsel for

the opposite party / husband of the petitioner.

The petitioner, has approached this Court under
Section 24 of the Code of Civil Procedure with a prayer to direct
for transferring Matrimonial Case No. 109 of 2013 from the court
of Principal Judge, Family Court , Khagaria to the court of
Principal Judge, Family Court, Madhubani.

It has been pleaded that petitioner's marriage was
solemnized with opposite party on 9.6.2010. It was orally
submitted that marriage was solemnized at Madhubani. When
petitioner went to her matrimonial house she was subjected to



cruelty and suddenly on 26.2.2011 she was ousted from the matrimonial house and thereafter she is residing at her parents house at Madhubani. After being ousted, from the petitioner's side a complaint case vide C.R. No. 246 of 2011 was filed in the court of learned Chief Judicial Magistrate , Madhubani in which cognizance order was passed for offence under Section 498A of the Indian Penal Code. Learned counsel for the petitioner submits that the husband / opposite party has already appeared in complaint case before the court at Madhubani. After filing of the complaint case, from the petitioner's side, the husband /opposite party had filed a Matrimonial Suit No. 24 of 2011 under Section 9 of the Hindu Marriage Act in the garb of restitution of conjugal life. However, subsequently vide order dated 23.1.2013 the said Suit was dismissed as withdrawn imposing cost of Rs. 25,000/-. The petitioner thereafter filed a case under Section 9 of the Hindu Marriage Act in the court at Madhubani which was numbered as Matrimonial (Restitution of Conjugal Life) Case No. 101 of 2013. After knowing the fact regarding pendency of the said case the opposite party has filed the present divorce case under Section 13 of the Hindu Marriage Act which has been numbered as Matrimonial (Divorce) Suit No. 109 of 2013 in the court at Khagaria . It was argued by learned counsel for the petitioner that



for petitioner being lady it would be difficult for her to regularly attend proceeding at Khagaria. Moreover, it has been argued that since under the Hindu Marriage Act itself petitioner had firstly filed a case at Madhubani which is still pending, in normal course as per the provisions of Section 21 of the Hindu Marriage Act the present divorce case i.e. Matrimonial (Divorce) Suit No. 109 of 2013 is necessary to be transferred to Madhubani.

Sri Dhananjay Kumar Pandey , learned counsel has vehemently opposed the prayer of the petitioner. He submits that petitioner was mentally sick even prior to marriage. It was orally submitted by learned counsel for opposite party that even though marriage was solemnized in the year 2010 no relation as husband and wife had taken place in between the parties. He further suggests that in case the Court proposes for transferring the case from Khagaria to other court then instead of transferring the case to Madhubani it may be transferred to Darbhanga so that opposite party may also participate in the proceeding.

Besides hearing learned counsel for the parties I have perused the materials available on record. Fact remains that petitioner's marriage with opposite party has not been disputed. It has also not been disputed that marriage was solemnized at Madhubani. It is evident that immediately after being ousted the



petitioner had filed a complaint case in the court at Madhubani and finally she had filed a case for restitution of conjugal life vide Matrimonial (Restoration of Conjugal Life) Case No. 101 of 2013 and only thereafter the present divorce case was filed. Moreover, keeping in view the fact that petitioner is lady the Court appreciates the difficulty in participating in proceeding from Madhubani to Khagaria and as such for the ends of justice it is desirable for transferring the case record of Matrimonial Case No. 109 of 2013 . The petition stands allowed. It is directed to transfer the record of Matrimonial Case No. 109 of 2013 from the court of Principal Judge, Family Court, Khagaria to the court of Principal Judge, Family Court, Madhubani forthwith.

It is clarified that after receipt of the record from Khagaria to Madhubani the petitioner shall render full co-operation for early disposal of the case.

(Rakesh Kumar, J)

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