

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.5968 of 2017**

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Guriya Devi @ Nisha wife of Ashutosh Kumar Mishra, Daughter of Bikramaditya Pandey, resident of village Durgadih, P.S. Bikramganj, District Rohtas, at present residing of village \_Naya Bhojpur, P. S. Dumraon, District-Buxar

.... .... Petitioner/s

Versus

1. State of Bihar
  2. Ashutosh Kumar Mishra, alias Asahu Mishra, son of Ajay Kumar Mishra alias Tuntun Mishra, resident of Village-Durgadhi, P. S. Bikramganj District Rohtas at Sasaram
- .... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Dr. Kamal Deo Sharma

For the Opposite Party/s : Mr. Kumar Ranjit Ranjan, APP

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI**  
**SHARAN SINGH**  
ORAL ORDER

2      09-02-2017

Heard learned counsel for the parties.

2. The present application has been filed under Section 407 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the **Code**) seeking transfer of Bikramganj P. S. Case No. 14 of 2015 and Complaint Case No. 47 of 2015 from the Court situated at Bikramganj under the District Judgeship of Rohtas to a Court of equivalent jurisdiction under the District Judgeship of Buxar at Buxar.

3. Petitioner is the wife of Opposite party No.2. She has lodged Bikramganj P. S. Case No. 14 of 2015 against Opposite party No.2 and his family members making out a case of commission of offence punishable under Section 498A of the Indian Penal Code. Opposite party No.2 has also filed



a complaint case registered as Complaint Case No. 47 of 2015 against the petitioner and her family members.

4. The sole plea which has been taken in the present application seeking transfer of the case is that Opposite party No.2 and his family members are powerful persons in the local area and they are richest men of Bikramganj. It is also her case that the parents of the petitioner are old and they are not in a position to appear before the Court at Bikramganj. The petitioner is a resident of Naya Bhojpur in the district of Buxar.

5. Learned counsel for the petitioner has in addition, submitted, referring to the statement made in paragraphs 8 and 9 of the application that a maintenance proceeding and an appeal under domestic violence act are pending in a Court at Buxar and, therefore, these criminal cases should also be transferred to Buxar.

6. Learned counsel for the petitioner has placed reliance on following Supreme Court's decision in support of his submission:-

(1) **(2015) 11 SCC 769 ( Pritam Ashok Sadaphule and others vs. State of Maharashtra and another)**

7. Considering the grounds taken on behalf of the petitioner for transfer of the case, I do not consider that any



case for exercise of power under Section 407 of the Code is made out for transfer of the criminal cases from Bikramganj to Buxar.

8. I do not find that the said case is applicable in the facts and circumstances of the present case particularly in view of the vague grounds taken in the present application. I may notice Supreme Court's decision in case of ***Jyoti Mishra Vs. Dhananjaya Mishra*** reported in **(2010) 8 SCC 803**, wherein the Supreme Court has observed in clear terms that in cases of dissolution of marriage, restitution of conjugal rights or maintenance, the Court shows much indulgence to the wife, but a criminal case, is on entirely different footing. In a criminal case right of the accused to a fair trial and proper opportunity to defend himself cannot be ignored for the convenience of the complainant/informant, simply because she happens to be the estranged wife.

9. I do not find any merit in this application.

10. This application is, accordingly, dismissed.

ArunKumar/-

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(Chakradhari Sharan Singh, J)

