

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18990 of 2017

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Mausam Devi @ Mausam Kumari wife of Abhishek Sinha, Resident of village-Shambhupatti, P.S. Mufassil, District- Samastipur and Mohalla-Kashipur, P.S. Two, District-Samastipur at present Daughter of Ram Swaroop Prasad Singh resident of Villege- Tengraha, P.S. Minapur, District-Muzaffarpur

.... Petitioner/s

Versus

1. State of Bihar
2. Abhishek Sinha, son of Mritunjay Prasad Singh Resident of Village-Shambhupatti, P.S.- Mufassil, District-Samastipur and Mohalla-Kashipur, P.S. Town, District Muzaffarpur.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hari Kishore Thakur

For the Opposite Party/s : Mr. Smt. Sahin Begam

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

3 24-07-2017 Heard learned counsel for the parties.

There is no dispute that the petitioner is wife of Opposite party No.2. She has filed application under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code) in the Court of learned Principal Judge, Family Court, Samastipur, giving rise to Maintenance case No. 199 of 2014, which is pending there.

This application has been filed seeking transfer of the said case under Section 407 of the Code from the Family Court, Samastipur to Family Court, Muzaffarpur.

This is not in dispute that the petitioner is resident of Muzaffarpur. It is being argued on behalf of the petitioner that at one stage, the relationship between the petitioner and



Opposite party NO.2 had slightly improved after initial discord, whereafter, she had started living with the Opposite party NO.2 at Samastipur. During that period, she filed the said application under Section 125 of the Code before the Family Court at Samastipur. Now since the relationship between two has deteriorated, she has moved to her mother's place near Muzaffarpur and living with her father at village Tengraha, Police Station Minapur, which is 30 Kilometers away from Muzaffarpur. Samastipur is far away from Muzaffarpur. It is being, accordingly, submitted that it will be quite inconvenient for the petitioner to pursue her remedy before the Samastipur Court, considering the distance, which she would be compelled to travel.

Learned Counsel appearing on behalf of Opposite party No.2, on the other hand, while opposing the prayer for transfer has submitted that convenience of the parties cannot be the only ground for transfer of the case. He has submitted that the petitioner herself had filed the said application under Section 125 of the Code at Samastipur though she had option to file her application at Muzaffarpur. Now according to her wish, the case should not be transferred to the Court of Muzaffarpur, he contends.

After having heard learned counsel for the parties and seeing the materials on record, I find that since it is a



case arising out of a proceeding under Section 125 of the Code in which the petitioner is claiming maintenance allowance, it would be in the interest of justice to transfer the said case from Samastipur to Muzaffarpur, so that the petitioner may pursue her case effectively. The distance of Muzaffarpur from Samastipur is 55 Kilometers and thus, it will be not inconvenient for the Opposite party NO.2 to attend the Court there at Samastipur.

Taking a holistic view of all the facts and circumstances, this application is allowed. Let Maintenance Case No. 199 of 2014 be transferred to the Court of learned Principal Judge, Family Court, Muzaffarpur, from the Court of learned Principal Judge, Family Court, Samastipur..

Let the records be transmitted to the learned Principal Judge, Family Court, Muzaffarpur, accordingly, forthwith.

(Chakradhari Sharan Singh, J)

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