

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.5841 of 2013

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Radha Devi, Wife Of Bipin Kumar And Daughter Of Ganesh Jha,
Resident Of Village - Gangasagar Chowk, Madhubani, P.O. + P.S. +
District - Madhubani

.... Petitioner/s

Versus

Bipin Kumar Son Of Raj Nandan Sharma Resident Of Village Haweli, P.O.
- Maraura, P.S. - Bihar, District - Nalanda

.... opposite party/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav

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

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7 27-01-2017 Heard Sri Suraj Narain Yadav, learned counsel for the

petitioner and Sri Vijay Kumar Pandey, learned counsel assisted

by Sri Amaresh Kumar, learned counsel who has appeared on

behalf of the opposite party/ husband of the petitioner.

The petitioner/ wife of the opposite party has
approached this Court under Section 24 of the Code of Civil
Procedure with a prayer to direct for transferring Divorce Case
No. 193 of 2013 from the court of Principal Judge, Family Court,
Nalanda, Bihar Sharif to the court of Principal Judge, Family Court,
Madhubani.

It has been pleaded that marriage of the petitioner with
opposite party was solemnized on 11.2.2008 according to Hindu
rites at Madhubani. After marriage she started to peacefully live



her conjugal life but immediately thereafter her husband and her in-laws started to demand dowry and she was tortured mentally and physically. From the wedlock of the petitioner and opposite party the petitioner was blessed with a female child. Subsequently the petitioner with her minor daughter was dropped by the opposite party to petitioner's parents house. In fact the petitioner was ousted by the opposite party. The petitioner in view of torture had earlier filed a criminal case vide Madhubani Town P.S. Case No. 159 of 2013 under Section 498(A) of the Indian Penal Code against the opposite party. Even during pendency this petition the petitioner has also filed a maintenance case vide M.R. Case No. 18 of 2014 before the Principal Judge, Family Court, Madhubani. Though Principal Judge, Family Court, Madhubani has directed the opposite party to pay maintenance to the petitioner as well as her minor child, the opposite party is not paying the same. It has been alleged that opposite party without decree of divorce has solemnized second marriage. Sri Suraj Narain Yadav, learned counsel for the petitioner submits in this case a supplementary affidavit has been filed which suggests that due to non payment of maintenance even warrant of arrest has also been issued against the opposite party. According to learned counsel for the petitioner it is difficult for the petitioner to



regularly attend the proceeding in Divorce Case at Nalanda from Madhubani keeping in view the fact that petitioner is having minor baby in her lap.

Sri Vijay Kumar Pandey, learned counsel who has appeared on behalf of the opposite party has vehemently opposed the prayer. By way of referring to the facts disclosed in the counter affidavit he submits that the husband i.e. opposite party was misbehaved by the family of the petitioner and he apprehends that he may be killed by the family members of the petitioner. He has also disputed the allegation of second marriage. He submits that instead of transferring the case to Madhubani the case may be transferred to any other place.

Besides hearing I have perused the materials available on record.

Considering the facts and circumstances particularly the fact that petitioner is the wife having minor child, for the ends of justice it is desirable to direct for transferring the record of Divorce Case No. 193 of 2013 from the court of Principal Judge, Family Court, Nalanda, Bihar Sharif to the court of Principal Judge, Family Court, Madhubani. The record of the case may be transferred within a period of six weeks from the date of receipt/production of a copy of this order.



So far allegation made by the petitioner that opposite party has solemnized second marriage is concerned, it is observed that this Court has not recorded any finding on this very issue. This Court has proceeded to pass order for transferring the case keeping in view the fact that petitioner is a lady and she is having a minor child.

The petition is allowed.

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(Rakesh Kumar, J)

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