

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4692 of 2014

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Punam Devi, w/o Shri Bhola Nath Arya D/O Shri Yogendra Patwa, resident of Mohalla- Maizee Thakurbari, Main Road, P.O. & P.S. Khagaria, District- Khagaria

.... Petitioner

Versus

Bhola Nath Arya S/O Shri Vaidya Nath Arya, R/M Khushkibag, P.S. Sadar, District- Purnea, at present residing at Upgraded Middle School, Tirhut Bitta, P.O. Bagnagar, P.S. Araria, District- Araria

.... Opp.Party

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Appearance :

For the Petitioner/s : Mr. Smt. Sudha Ambastha, Adv.

For the Respondent/s : Mr. Sunil Kumar Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 06-02-2017 Heard Smt. Sudha Ambastha, learned counsel for the petitioner and Sri Sunil Kumar Verma, learned counsel, who has appeared on behalf of Opp.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 the record of Matrimonial Case No.298/2014 from the court of Learned Principal Judge, Family Court at Purnea to the court of learned Principal Judge, Family Court, Khagaria.

In this case, Opp.Party has filed counter affidavit. On the basis of pleadings, it is evident that the marriage of the petitioner with Opp.Party was solemnized long back in the year 2000. After the marriage, the petitioner was living with her husband. However, earlier some dispute arose. Finally the



petitioner was blessed with a female child from the said wedlock in the year 2008. Thereafter, it has been alleged that the petitioner was tortured mentally and physically and even she was ousted. The petitioner, thereafter, filed a maintenance case vide Maintenance Case No.07 (M)/2013 in the court of learned Principal Judge, Family Court at Khagaria due to the reason after being ousted from her in-laws house, the petitioner started living with her old parents at Khagaria with her minor child. Besides maintenance case, from the petitioner side a Criminal Case vide Khagaria P.S. Case No. 56/2013 was also registered against Opp.Party and others for the offence under Sections 498(A)/307/379/315/316/364(A) of the Indian Penal Code. After lodging of the maintenance case as well as institution of the criminal case, according to learned counsel for the petitioner, the husband with a view to pressurize the petitioner filed a divorce case vide Matrimonial Case no.298/14, which was filed on 13.10.2014 under Section 13 of the Hindu Marriage Act for dissolution of marriage in the court of Principal Judge, Purnea. It has been pleaded by learned counsel for the petitioner that the petitioner being a lady may face many hardships in regularly attending the proceeding at Purnea and, as such, it has been prayed for transferring the record of Matrimonial Case no.298/14 from the



court of Purnea to the court of Khagaria.

Sri Sunil Kumar Verma, learned counsel appearing on behalf of Opp.Party/ husband of the petitioner has vehemently opposed the prayer of the petitioner. It has been argued by learned counsel for the Opp.Party that the husband has suffered a lot at the hands of the petitioner. He submits that prior to filing of Maintenance Case from the petitioner side, in the year 2005 a complaint case was filed which ended in discharge of the Opp.Party and thereafter again and again several litigations were initiated against the husband of the petitioner. According to learned counsel, the Opp.Party is a School teacher and at the time of filing of Divorce case, he was posted at Purnea and thereafter he has been transferred to Araria and, as such, he suggested for transferring the record of the case to Bhagalpur instead of Khagaria from Purnea, so that Opp.Party may conveniently appear in the said proceeding. It was highlighted that the petitioner is suffering from serious disease; even then the husband of the petitioner has tolerated the same. Learned counsel for the Opp.Party/ husband of the petitioner submits that Maintenance case has already come to an end and Rs.7000/- per month has finally been fixed and the husband of the petitioner is regularly paying maintenance amount to the petitioner.



Besides hearing learned counsel for the parties, I have also perused the materials available on record, Fact remains that the Maintenance Case was filed in the year 2013 and only, thereafter the present Divorce case was filed. It is not in dispute that the petitioner was blessed with a female child from the said wedlock. It is also not in dispute that the petitioner is presently residing with her old parents at Khagaria with her minor child.

Keeping in view the fact that the petitioner is a lady and having a minor child, it would not be appropriate to direct for allowing her to regularly attend the said proceeding at Purnea. For just decision of the case, the Court is of the opinion that the record of the said Matrimonial Case can be transferred from Purnea to Khagaria. So far submission of learned counsel for Opp.Party that the case may be transferred to Bhagalpur is concerned, the Court is of the opinion that the petitioner being a lady with her minor child, she may not be asked to regularly attend the proceeding at Bhagalpur.

In view of facts and circumstances, the petition is allowed. It is directed to transfer the case record of Matrimonial Case No.298/2014 from the court of Learned Principal Judge, Family Court at Purnea to the court of learned Principal Judge, Family Court, Khagaria, forthwith. It is directed that the petitioner



shall render full co-operation after receipt of the record so that the case may be concluded finally without unnecessary delay.

(Rakesh Kumar, J)

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