

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.232 of 2017

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Rama Kant Ojha, S/o Late Ram Gyan Ojha, Resident of
Village-Phulwaria, P.S.-Manjhagarh, District-Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Akansha Priya, D/o Krishna Murari Mishra, W/o Rakesh Kumar, resident of Mohalla-Chandmari, Ekawna, P.S.-Motihari (Town), District-East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dwivedy Surendra, Adv.

For the Opposite Party/s : Mr. Shyam Kr. Singh, APP

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

ORAL ORDER

2 10-01-2017 Heard the parties.

This application has been filed, under Section 407 of the Code of Criminal Procedure, 1973, seeking transfer of five criminal cases, which are pending in various Courts under the Judgeship of East Champaran at Motihari.

The ground which has been taken for transfer of the cases is that the petitioner, who is father-in-law of opposite party No. 2, suffers from 40% disability and resides at Gopalganj. According to the petitioner, it would be



inconvenient for him to go to the Courts under the Judgeship of East Champaran at Motihari.

Inconvenience of a party cannot be the sole ground for transfer of criminal cases from one place to another in exercise of power under Section 407 of the Code of Criminal Procedure. Reference can be made in this regard to Supreme Court decision in case of ***Jyoti Mishra Vs. Dhananjaya Mishra, reported in (2010) 8 SCC 803***, paragraph Nos. 5 and 6 of which reads thus:-

"5. It is true that in cases of dissolution of marriage, restitution of conjugal rights or maintenance, this Court shows much indulgence to the wife and ordinarily transfers the case to a place where it would be more convenient for the wife to prosecute the proceedings. But a criminal case is on a somewhat different footing. The accused may not be able to attend the court proceedings at Indore for many reasons, one of which may be financial constraints, but the consequences of non-appearance of the accused before the Indore Court would be quite drastic.

6. Having regard to the consequences of non-appearance of the accused in a criminal trial, we are loath to entertain the petitioner's prayer for transfer. In a criminal proceeding, the right of the accused to a fair trial and a proper opportunity to defend himself cannot be



ignored for the convenience of the complainant simply because she happens to be the estranged wife."

Learned counsel for the petitioner has submitted that making same allegation, opposite party No. 2 has filed complaint case and police case at the same time.

Considering the facts and circumstances, I do not find any merit in this application. This application is, accordingly, disposed of.

It goes without saying that the petitioner shall be at liberty to take recourse to appropriate provisions of law as may be permissible to him in this regard.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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