

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2211 of 2015

In

Matrimonial Reference No. 42 of 2015

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Mamta Kumari, W/o Sri Deepu Kumar @ Chunnu @ Deepak, D/o Sri Yugal Kshore Rai @ Yugal Kishore Lall R/v- MIG-16, Hanuman Nagar, P.S.- Patrakar Nagar, Distt- Patna.

.... Petitioner

Versus

Deepu Kumar @ Chunnu @ Deepak @ Deepak Kumar Barnwal, S/o Sri Ramdeo Prasad, R/v- Dakhin Darbaja Bangali Ashram, P.O.- Chand Chaura, P.S.- Civil Line, Distt- Gaya.

.... Opp.Party

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha

Mr. Anil Kumar

For the Respondent/s : Mr. Sanjeev Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7 27-04-2017 Heard Sri Anil Kumar, learned counsel for the petitioner and Sri Sanjeev Kumar, learned counsel, who has appeared on behalf of Opp.Party/husband of the petitioner.

The petitioner has filed the present petition under Section 24 of the Code of Civil Procedure with a prayer to direct for transferring Matrimonial (Divorce) T.S. No.42 of 2015 from the court of learned Principal Judge, Family Court, Gaya to the court of learned Principal Judge, Family Court, Patna.

Learned counsel for the petitioner has drawn my attention to the statement made in paragraph no.1 of Annexure-3 to the petition i.e. copy of plaint of Matrimonial (Divorce) T.S.



No.42/2015 and submits that the marriage of the petitioner with Opp.Party was solemnized at Patna. After the marriage, the petitioner was being tortured and, thereafter, the petitioner was constrained to file a criminal case vide Patrakar Nagar P.S. Case No.58 of 2015 for offence under Section 498A and other allied Sections of the Indian Penal Code and Sections 3 /4 of the Dowry Prohibition Act. Besides filing of the F.I.R. from the petitioner's side, a Maintenance Case vide Maintenance Case no.288 (m)/2015 was filed under Section 125 of the Code of Criminal Procedure. In sum and substance, it has been argued that the petitioner's marriage with Opp.Party was solemnized within the territorial jurisdiction at Patna. In normal course, the suit was required to be filed at Patna itself not at Gaya. On the aforesaid ground, a prayer has been made for transferring the record of the case.

Learned counsel for Opp.Party has opposed the prayer of the petitioner. He submits that it is not true that only one police case was instituted by the petitioner, rather the petitioner for the same allegation has filed two cases; one at Gaya and another at Patna. Learned counsel for Opp.Party has drawn my attention to an order passed by a Bench of this Court i.e. order dated 05.09.2016 passed in Cr.Misc.No. 4898 of 2016. It was submitted that the petitioner had approached this Court for amalgamation of



two cases, which was finally disposed of on 05.09.2016.

Considering the fact and circumstances, particularly the fact that the petitioner is a lady, the Court is of the opinion that it would be difficult for her to regularly attend the proceeding at Gaya from Patna.

Accordingly, the petition is allowed.

Let the record of Matrimonial (Divorce) T.S. No.42 of 2015 be transferred from the court of Principal Judge, Family Court, Gaya to the learned Principal Judge, Family Court, Patna forthwith. It is made clear that after receipt of the record at Patna, the petitioner shall render full co-operation for early disposal of the case.

(Rakesh Kumar, J)

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