

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.758 of 2015

IN
Matrimonial Reference No. 450 of 2014

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Sima Devi Wife of Ankush Kumar @ Ankush Kumar Jaiswal, Daughter of
Prabhu Prasad, Resident of Village Semra Balwatiya, Police Station Turkauliya,
District East Champaran.

.... Petitioner

Versus

Ankush Kumar @ Ankush Kumar Jaiswal S/o Sukhlal Chaudhary Resident of
Village Vajitpur, P.S. Parro, District Muzaffarpur.

.... Opposite Party

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Appearance:

For the Petitioner : Mr. Madhurendra Kumar, Advocate

For the Opp. Party : Mr. Pawan Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-06-2017

Heard learned counsel for the petitioner and learned counsel
for the opposite party.

2. The present petition has been filed for transfer of
Matrimonial Case No. 450 of 2014 pending in the Court of learned
Principal Judge, Family Court, Muzaffarpur to the Court of learned
Principal Judge, Family Court, East Champaran at Motihari.

3. The short facts of the case are that the parties were
married on 01.03.2012. Subsequently, the opposite party filed
Matrimonial Case No. 450 of 2014 before the Court of learned Principal
Judge, Family Court, Muzaffarpur for restitution of conjugal rights in
terms of Section 9 of the Hindu Marriage Act, 1956 alleging that the
petitioner had left the matrimonial home on 17.09.2014 without
reasonable cause.



4. Learned counsel for the petitioner submits that the said Matrimonial Case filed at Muzaffarpur is vindictive only to harass the petitioner. Prior to the Matrimonial Case being filed, the petitioner herself had filed Case No. 806 of 2014 before the learned Chief Judicial Magistrate, Sadar, East Champaran at Motihari on 22.09.2014 alleging, *inter alia*, torture and cruelty for non-fulfillment of dowry demand with the result that the opposite party and his family ousted the petitioner from the matrimonial home on 17.09.2014. The petitioner has also filed Maintenance Case No. 293 of 2014 before the Court of learned Principal Judge, Family Court, East Champaran at Motihari on 22.09.2014 stating therein that the opposite party runs a *kirana* shop and has sufficient agricultural income. It is further submitted that the petitioner is residing with his parents at her maternal home with her two year old daughter and does not have the financial means to contest the Matrimonial Case at Muzaffarpur.

5. Learned counsel for the opposite party appears and opposes the petition for transfer of the Matrimonial Case from Muzaffarpur to Motihari. It is submitted that such transfer would entail financial loss to the opposite party as he will have to close his *kirana* shop in order to go to Motihari to pursue the Matrimonial Case.

6. Having heard the parties and on consideration of the materials on record, I am satisfied that the ends of justice will be met if Matrimonial Case No. 450 of 2014 is transferred from the Court of



learned Principal Judge, Family Court, Muzaffarpur to the Court of learned Principal Judge, Family Court, East Champaran at Motihari.

7. It is not in dispute that two cases have been filed by the petitioner which are already pending at Motihari and in which the opposite party would be required to attend at Motihari. It is also not disputed that the petitioner has no independent source of income whereas the opposite party runs a *kirana* shop at Muzaffarpur and as such he is financially capable of making trips to Motihari. The petitioner has also to look after her daughter of tender age of two years and it would be difficult for her to leave the child behind or to take the child with her to Muzaffarpur, if she is required to travel to Muzaffarpur. The balance of convenience therefore, clearly tilts in favour of the petitioner in the above circumstances.

8. Accordingly, I direct for transfer of Matrimonial Case No. 450 of 2014 pending in the Court of learned Principal Judge, Family Court, Muzaffarpur to the Court of learned Principal Judge, Family Court, East Champaran at Motihari.

9. The petition stands allowed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.06.2017
Transmission Date	N.A.

