

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.834 of 2016

IN

Matrimonial Reference No. 69 of 2014

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Jainab Khatoon wife of Md Jahid, daughter of Md. Jabir Hussain at present Resident of Village- Ujjan Ward No. 8, Near Masjid, P.O. Lohna Road P.S. Shakatpur District Darbhanga.

.... Petitioner

Versus

1. Md. Jahid Hussain son of Md. Asique Darjee resident of Village-Pokhar Basti PS Forbesganj District Araria.
2. Md. Jabir Hussain, son of Late Kari Darjee
3. Jarina Khatoon, wife of Md Jabir Hussain
4. Bibi Roshan, daughter of Md. Jabir Hussain
All are resident of Village- Ujan Ward, No. 8 Near Masjid P.O. Lohna Road P.S. Shakatpur Dist Darbhanga.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Sanjay Kumar Jha, Advocate

For the Opposite Parties : Mr. Ashok Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-07-2017

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

2. The present petition has been filed for transfer of Matrimonial Case No. 69 of 2014 from the Court of learned Principal Judge, Family Court, Araria to the Court of learned Principal Judge, Family Court, Darbhanga.

3. The short facts of the case, according to the petitioner, are that the marriage between the parties was solemnized on 01.02.2006 and the parties were living harmoniously for some time and two sons were



born from the wedlock. In the meantime, on 15.06.2007 the petitioner who was employed as Assistant Teacher, came to be posted in Government Upgraded Middle School, Jhawan, Block Jhanjharpur, District Madhubani. In due course, matrimonial relationship deteriorated and the petitioner was treated with cruelty and with demand for dowry. On 14.06.1993 the petitioner was ousted from her matrimonial home. The petitioner thus filed Complaint Case No. 2017C of 2013 under Sections 498A and 379 of the Indian Penal Code against the opposite party no. 1 and his family members.

4. Learned counsel for the petitioner submits that the petitioner is residing at her parental home at Darbhanga and is teaching at a school situated about 20 kilometers away. She has two sons to take care of at Darbhanga. It is further submitted that the Matrimonial Case is pending at Araria and that it would be extremely difficult for the petitioner to attend the Court at Araria which is at a considerable distance from her place of posting in order to contest the Matrimonial Case filed by the opposite party no.1.

5. Learned counsel for the opposite parties appears and opposes the transfer of the Matrimonial Case as sought by the petitioner. It is submitted that the petitioner herself has filed Complaint Case No. 2017C of 2013 at Araria. Moreover, the Matrimonial Case was filed by the opposite party no. 1 in 2014, in which the petitioner has appeared and the trial is at advanced stage. It is further stated that the petitioner



is a working lady earning salary of Rs. 3.00 lakhs per annum whereas the opposite party no. 1 is unemployed since ten years and doing some small local business for his survival.

6. Having heard the parties and on careful consideration of the materials available on record, this Court does not find merit in the present petition. It is not in dispute that the petitioner herself has filed Complaint Case No. 2017C of 2013 under Section 498A and 379 of the Indian Penal Code against the opposite party and his family members at Araria itself which she would be required to attend in order to pursue the same. Therefore, there appears no reason why she cannot also attend the Court at Araria to contest the Matrimonial Case filed by the opposite party no. 1. The petitioner appears to be a lady of substantial means, inasmuch as the statement contained in para 8 of the counter affidavit with regard to her annual income of Rs. 3.00 lakhs per annum has not been controverted by the petitioner. This Court therefore, is not satisfied to accede to the prayer of the petitioner for transfer of the Matrimonial Case as sought in the present petition.

7. The petition accordingly stands dismissed.

(Vikash Jain, J)

Chandran/BT

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