

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2880 of 2015

IN

Matrimonial Reference No. 5694 of 2014

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Nilophar Perween wife of Md. Samir, resident of Kagzi Mohalla, P.S.- Bihar Sharif, District- Nalanda.

.... Petitioner

Versus

1. Mohammad Samir son of Late Abdul Sattar, Resident of Ajij Manzil, Mohalla- Phulwarisharif, PS- Phulwarisharif, District- Patna.
2. Shamima Khatoon, wife of Md. Kalimuddin, R/o Kagzi Mohalla- Sistari, Hospital More Near Chhoti Dargah, PO and PS- Bihar Sharif, Nalanda.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Fakhruddin Ali Ahmad
Mr. Md. Naseem Mukhtar, Advocates.
For the Opposite Parties : Mr. Dileep Kumar Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-10-2017

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. 5694 of 2014 pending in the Court of learned Principal Judge, Family Court, Patna to the Court of learned Principal Judge, Family Court, Nalanda.

3. The short facts of the case according to the petitioner are that she was married to the opposite party no. 1 on 20.10.2013 and subsequently a male child was born from the marriage. The petitioner was ill-treated and tortured by her in-laws and finally ousted along with her son from the matrimonial house after which she came to



reside with her mother at Biharsharif and filed Complaint Case No. 46 of 2015 under Section 498A of the Indian Penal Code before the learned Chief Judicial Magistrate, Nalanda.

4. Learned counsel for the petitioner submits that she is a poor lady without any source of income and has a small son presently about three years of age to look after. It is submitted that she would be in great difficulty if she is required to travel to Patna to contest the matrimonial case.

5. Appearance has been entered on behalf of the Opposite Party Nos. 1 and 2 pursuant to issuance of notice. The opposite party no. 1 however is not represented when the matter is called. Learned counsel for the opposite party no. 2 states that despite best efforts he is unable to contact the opposite party no. 2.

6. Having regard the submissions made on behalf of the petitioner, this Court finds merit in the petition. The petitioner is a lady without any source of income and is wholly dependent on her mother for her livelihood. The petitioner also has a small child of about three years of age to look after. The petitioner would no doubt face difficulty both financially as well as practically in traveling to Patna to contest the matrimonial case. It has also been stated that there is already a complaint case filed by her which is pending at Nalanda which the opposite party no. 1 is required to attend. The balance of convenience therefore, lies in favour of the petitioner.



7. In the above circumstances, this Court directs transfer of Matrimonial Case No. 5694 of 2014 from the Court of learned Principal Judge, Family Court, Patna to the Court of learned Principal Judge, Family Court, Nalanda.

8. The petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
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