

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3481 of 2015

IN

Matrimonial Reference No. 371 of 2015

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Nishu Kumari wife of Sri Binay Kumar and daughter of Jitendra Prasad Singh,
Resident of village- Bastipur, P.S.- Dehri-on-Sone, District- Rohtas, at present
resident of Flat No. 205, Chanchal Apartment at Mohalla Nehru Nagar, P.S.-
Patliputra, District- Patna- 800013

.... Petitioner

Versus

Binay Kumar son of late Shyam Bihari Singh, at present residing in B.S.N.L.
Quarter at Main Telephone Exchange Compound, Anaith, Ara, P.S.- Ara
Nawada, District- Bhojpur, Pin Code- 803201

Opposite Party

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Appearance :

For the Petitioner : Mr. Anil Kumar Singh ,Adv

For the Opposite Party : Mr. Brij Mohan Kumar Srivastava, Adv

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-09-2017

The present petition has been filed for transfer of Matrimonial
Case No. 371 of 2015 from the Court of learned Principal Judge, Family Court,
Bhojpur at Ara to the Court of learned Principal Judge, Family Court, Patna.

2. Learned counsel for the petitioner submits that she was treated
with cruelty by the opposite party and ousted from her matrimonial home on
07.09.2015, after which she came to reside at her parental house at Patna. It
is submitted that Complaint Case No. 3674 (c) of 2015 under Sections 498A,
341, 323, 406, 379, 420 IPC and Sections 3/4 of the D.P. Act has been filed by
her, which is pending at Patna.

3. Learned counsel for the opposite party appears and opposes
the petition. It is pointed out that earlier Complaint Case No. 124 (c) of 2013
was filed by the petitioner under Sections 341, 323, 406 and 498A of the
Indian Penal Code and Section 3 and 4 of the D.P. Act in which the accused
persons including the opposite party were not found guilty in terms of
judgment dated 09.03.2015 passed by the learned S.D.J.M., Patna. Soon
thereafter however, Complaint Case No. 3674 (c) of 2015 was filed on



29.10.2015 with similar allegations of cruelty and torture, which is thus frivolous in nature. It is further stated that the opposite party is working on the post of S.D.O. in Bharat Sanchar Nigam Limited, Ara and would have difficulty in taking leave to come to Patna to prosecute the Matrimonial Case, if the same is transferred as sought by the petitioner.

4. Having heard the parties and on a consideration of the materials on record, this Court is not inclined to interfere in the matter. It is not in dispute that interim maintenance of Rs. 8,000/- per month as also litigation cost of Rs. 5,000/- has been awarded to the petitioner. However, it is stated in para 8 of the petition that the said maintenance case is pending in the Court of learned Principal Judge, Family Court, Ara (not Patna). This Court also takes note that the second Complaint Case alleging cruelty has been filed after the opposite party has been found not guilty in the earlier Complaint Case filed with similar allegations.

5. The petition accordingly stands dismissed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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