

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2479 of 2016

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Vijay Laxmi Mishra @ Smt. Vijay Lakshmi Devi, Wife of Gautam Krishna Mishra, daughter of Sri Subodh Narayan Jha, at present residing at Saguna, Gandhi Murti, Danapur, P.S. Danapur, District- Patna.

.... Petitioner

Versus

Gautam Krishna Mishra, Son of Shyamal Kumar Mishra, Resident of Village- Muraith, P.S.- Jalley, District- Darbhanga at present residing at Buchaman, Near Dilli More (Institute of Professional Education), P.S. Darbhanga Sadar, District- Darbhanga.

.... Opposite Party

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Appearance:

For the Petitioner : Mr. Jitendra Kumar Singh, Advocate
Mr. Md. Fahimuddin, Advocate
For the Opposite Party : Mr. Krishna Nand Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-07-2017

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

2. The present petition has been filed for transfer of Divorce Case vide Matrimonial Case No. 158 of 2008 filed by the opposite party (initially filed for restoration of conjugal rights and subsequently converted into divorce petition) pending in the Court of learned Principal Judge, Family Court, Darbhanga to the Court of learned Principal Judge, Family Court, Patna.

3. The short facts of the case, according to the petitioner are that the parties were married on 29.04.2007, but owing to dowry demand by the opposite party rifts occurred in the marriage. Torture and cruelty ensued as a result of non-fulfillment of dowry demand and the petitioner came back to



her parental home at Danapur where she instituted Complaint Case No. 1254(c) of 2008 under Section 498A of the Indian Penal Code as well as Domestic Violence Case No. 383(c) of 2011 which are pending in the Court of learned Sub-divisional Judicial Magistrate, Danapur.

4. Learned counsel for the petitioner submits that despite order dated 27.01.2010 passed by a Division Bench of this Court in M.A. No. 475 of 2009 remitting the subject Matrimonial Case No. 158 of 2008 to the Family Court with the observation that the same be disposed of by the end of June, 2010, the matter continues to remain pending. It is submitted that the petitioner has been facing great difficulty in going to Darbhanga to contest the divorce case owing to great financial stringency having no independent resources of her own. Her father is in the Army posted at Kolkata and her brother is also employed at Kolkata.

5. Learned counsel for the opposite party appears and has been heard. No counter affidavit has been filed to controvert the statements made in the petition.

6. Having heard the parties and on a consideration of the materials on record this Court finds merit in the petition. The petitioner is a lady without any independent financial resources and the two male members in her family are both in Kolkata and are not available to accompany her to Darbhanga to attend the divorce case. Moreover, the two cases filed by the petitioner as aforesaid, are pending at Danapur in which the opposite party would be required to attend in order to contest the same. There is therefore, little reason for facing difficulty on his part in attending to the divorce case, if the same is transferred to Patna as sought by the petitioner.



7. In the above circumstances, the balance of convenience clearly lies in favour of the petitioner and accordingly let Matrimonial Case No. 158 of 2008 pending in the Court of learned Principal Judge, Family Court, Darbhanga be transferred to the Court of learned Principal Judge, Family Court, Patna.

8. The petition stands allowed.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.07.2017
Transmission Date	N.A.

