

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 645 of 2017

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Shingla Prabha, Wife of Manoj Kumar, Daughter of Sitaram Paswan, Resident of Village- Pakri Pakohi, Police Station- Karja, Anchal- Marwan, District- Muzaffarpur, at present residing at D/o Sitaram Paswan, Pawan Nagar, Rajni Niwas, Post- Yusufpur, P.S.- Sadar, District- Vaishali.

.... Petitioner

Versus

1. The State of Bihar
2. Manoj Kumar, Son of Balmukund Prasad, Resident of Village- Pakri Pakohi, Police Station- Karja, Anchal- Marwan, District- Muzaffarpur.

.... Opp. Parties

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Paswan

For the Opp. Party/s : Mr. Pradhan Murli Manohar Prasad

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 11-05-2017

Heard Sri Dharmendra Kumar Paswan, learned counsel for the petitioner and Sri Pradhan Murli Manohar Prasad, learned counsel who has appeared on behalf of opposite party no. 2/husband of the petitioner.

The petitioner has approached this Court under Section 24 of the Code of Civil Procedure, 1908, with a prayer to transfer the record of Divorce Case No. 383 of 2016 from the court of Principal Judge, Family Court, Muzaffarpur to any other competent Family Court either at Vaishali (Hajipur) or Patna.

It has been disclosed that petitioner's marriage with opposite party was solemnized on 18-06-2004. It has been pleaded that in the marriage, dowry was also provided and even after the



marriage, demand of Alto Car was made and due to non-fulfillment, the petitioner was administered torture by the opposite party and other in-laws. Finally, in the year 2011, the petitioner was ousted from her in-laws' house and thereafter, the petitioner filed a complaint case in the court of Chief Judicial Magistrate, Vaishali at Hajipur. As per petition, besides complaint case, the petitioner has also filed a maintenance case, vide Maintenance Case No. 108 of 2013, in the court of Principal Judge, Family Court, Vaishali at Hajipur. Subsequently, according to learned counsel for the petitioner, with a view to further harass the petitioner, the husband/opposite party no. 2 filed the present case i.e. Divorce Case No. 383 of 2016 at Muzaffarpur.

Learned counsel for the petitioner has orally argued that being lady, it would be difficult for her to regularly attend the proceeding at Muzaffarpur from Hajipur. It has been reiterated that after being ousted, the petitioner started living with her parents at Hajipur. On aforesaid ground, a prayer has been made for transferring the record of aforesaid divorce case.

Learned counsel appearing on behalf of opposite party/husband has vehemently opposed the prayer of the petitioner. By way of referring to fact disclosed in the counter affidavit, learned counsel for the opposite party submits that husband/opposite party is a



cardiac patient and suffering with several ailments. Besides this, the husband is a Physiotherapist and running a clinic at Muzaffarpur and as such, the husband also feels difficulty in appearing at the court at Hajipur. On aforesaid ground, a prayer has been made for rejecting the present petition.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. On going through the plaint i.e. **Annexure – 3** to the present petition (i.e. Divorce Case No. 383 of 2016), it is evident that opposite party no. 2 himself has stated in paragraph – 2 of the plaint that his marriage with petitioner was solemnized on 18-06-2004 in the Village - Yusufpur P.S. - Hajipur, District – Vaishali.

The Court is of the opinion that since marriage of petitioner with opposite party no. 2 was solemnized within the district of Vaishali, in normal course, the opposite party no. 2/husband was required to file case in the court at Hajipur. Besides this, maintenance case was already filed by the petitioner, much prior to filing of the divorce case. Apart from aforesaid fact, the Court also appreciates the fact that petitioner is a lady and being lady, in normal course, it would be difficult for her to regularly attend the proceeding at Muzaffarpur court from Hajipur and as such, the petition is allowed.

Let the record of Divorce Case No. 383 of 2016 be



transferred from the court of Principal Judge, Family Court, Muzaffarpur to the court of Principal Judge, Family Court, Vaishali at Hajipur forthwith.

It goes without saying that after receipt of the record in the court at Vaishali, Hajipur, the petitioner shall render full cooperation to the court below for early disposal of the case.

(Rakesh Kumar, J.)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.05.2017
Transmission Date	15.05.2017

