

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2128 of 2016

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Ruby Kumari, Wife of Ranjan Kumar and daughter of Triloki Nath Prasad Srivastava at present residing at House No. 40, Road No. 2, Indrapuri, Police Station Patliputra, District - Patna

.... Petitioner

Versus

1. Ranjan Kumar Son of Late Kanhaiya Kumar Srivastava, resident of Mohalla State Bank Colony, Bichla Telpa, Police Station Chapra Town, Chapra, P.O. Chapra, District - Saran
2. Triloki Prasad Srivastava, son of Late Chandrika Prasad
3. Madhuri Srivastava, wife of Triloki Prasad Srivastava
4. Deepak Kumar, son of Triloki Prasad Srivastava, House No. 40, Road No. 2. Indrapuri, P.S. Patliputra, Patna.

.... Opposite Parties

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Appearance:

For the Petitioner : Mr. Rang Nath Choubey, Advocate

For the Opp. Nos.2,3 and 4 : Dr. Kamal Deo Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-06-2017

Heard learned counsel for the petitioner and learned counsel for the opposite party nos. 2, 3 and 4.

2. The present petition has been filed for transfer of Matrimonial Case (R.C.R.) No. 60 of 2016 from the Court of learned Principal Judge, Family Court, Saran at Chapra to the Court of learned Principal Judge, Family Court, Patna.

3. The short facts according to the petitioner are that she was married with the opposite party no. 1 on 06.05.2013 and went to live in the matrimonial house on the next day. Soon thereafter, her in-laws and the opposite party no. 1 began inflicting torture on her, which even led to abortion of the child in her womb. She was thus forced to leave her matrimonial home. accompanied her parents to her parental



home at Patna on 09.08.2015 and since then she has been residing at Patna.

4. Learned counsel for the petitioner submits that the petitioner is ready and willing to live with her husband, but the subject Matrimonial Case filed under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights is merely an eye-wash as her husband is avoiding to take her back to her matrimonial home. She has no means to go to Chapra to represent herself in the matrimonial case as she is unemployed and has no independent source of income. Her father is a retired person and there is none else who can accompany her to Chapra to attend on the dates fixed in the Court.

5. By order dated 08.05.2017 Mr. Abhinav Shrivastava, learned counsel was present and stated that he had instructions to appear on behalf of the opposite party no. 1 and sought some time to file Vakalatnama. Further time for the purpose was granted by order dated 22.06.2017, but however, the office has reported that the opposite party no. 1 has not appeared through Vakalatnama. It is therefore, evident that the opposite party no. 1 has chosen not to appear and he is not serious about contesting the petition for transfer of the Matrimonial Case to Patna as sought by the petitioner. Respondent Nos. 2, 3 and 4 are the relatives of the petitioner who have been impleaded as they are parties in the matrimonial case and have appeared through counsel.

6. Having heard learned counsel for the petitioner and learned



counsel for the opposite party nos. 2, 3 and 4 and on consideration of the materials on record, this Court is of the view that the ends of justice requires that the matrimonial case be transferred from Chapra to Patna as sought. It is the stand of the petitioner that she is a lady without any independent source of income and does not have the resources to attend the Courts as and when required to do so. On the other hand, it has been stated that the opposite party no. 1 was a Branch Manager in Indus Ind Bank at Bhadohi (U.P.) and is presently working in Bandhan Bank at Bareli (U.P.) and thus he would have sufficient resources to pursue the matrimonial case at Patna. It is also stated that she would be unable to go to Chapra alone as her father is a retired old person.

7. In the above view of the matter, the balance of convenience clearly tilts in favour of the petitioner. Accordingly, let Matrimonial Case (R.C.R.) No. 60 of 2016 be transferred from the Court of learned Principal Judge, Family Court, Saran at Chapra to the Court of learned Principal Judge, Family Court, Patna.

8. The petition stands allowed.

(Vikash Jain, J)

Chandran/BT

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

