

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 1048 of 2015

In

Matrimonial Reference No. 142 of 2014

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Mamta Kumari W/o Sanjeev Kumar @ Rajeev Kumar D/o Sri Raj Ballabh Prasad Singh, resident of Mohalla-Kariyanand Nagar Near Bhavishya Bharti School, Lakhisarai, P.O. and P.S.-Purani Bazar, Lakhisarai, District-Lakhisarai.

.... Petitioner

Versus

Sanjeev Kumar @ Rajeev Kumar S/o Shankar Dayal Singh, resident of village-Majurah, P.S.-Turkauliya, District- East Champaran.

.... Opp. Party

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Appearance :

For the Petitioner/s : Mr. D.K.Sinha, Sr.Adv.

Mr. Abhinay Raj

For the Opp. Party/s : Mr. Madhurendra Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4. 10-02-2017 Heard Sri Devendra Kumar Sinha, learned senior counsel assisted by Sri Abhinay Raj, learned counsel for the petitioner and Sri Madhurendra Kumar, learned counsel, who has appeared on behalf of opposite party/husband of the petitioner.

2. The petitioner has approached this Court under Section 24 of the Code of Civil Procedure, 1908, with a prayer to direct for transferring Divorce Case No. 142 of 2014 from the court of learned Principal Judge, Family Court, East Champaran, Motihari to the court of learned Principal Judge, Family Court, Lakhisarai.

3. Short fact of the case is that petitioner's marriage



with opposite party was solemnised on 17-04-2009 in the district of Lakhisarai, which fact has been stated in paragraph – 2 of the divorce petition filed by the opposite party before the court below. It has been pleaded that after the marriage, due to non-fulfillment of dowry demand, the petitioner was tortured. She was carried to Delhi and from Delhi, she was finally ousted on 01-07-2014 and thereafter, the petitioner returned back and started to live with her parents at Lakhisarai. It has been indicated that from the wedlock, the petitioner was blessed with a female child and the minor child is in the lap of the petitioner. A specific statement has been made in paragraph – 5 of the petition that, the petitioner received a notice issued on 13-03-2015 in respect of the present divorce case i.e. Divorce Case No. 142 of 2014.

4. Learned senior counsel for the petitioner submits that only after receiving notice, the petitioner came to know that a divorce case was filed by opposite party at East Champaran (Motihari) and thereafter, she reached to this Court for transferring the record of said case from Motihari to Lakhisarai.

5. It has been indicated that petitioner before notice in the divorce case had already filed a criminal case, vide Lakhisarai (Mahila) P.S. Case No. 30 of 2014 for offence under Section 498(A) & other allied sections of the Indian Penal Code and



Sections 3 & 4 of the Dowry Prohibition Act, 1961 against the opposite party and in-laws member. Besides this, one miscellaneous case was also filed by the petitioner under Domestic Violence Protection Act, 2005, vide Misc. Case No. 13 of 2014.

6. Learned senior counsel for the petitioner, by way of referring to **Annexure – 2** to the supplementary affidavit, has argued that in Misc. Case No. 13 of 2014, a report from the Probation Officer, Motihari was obtained, which suggests that petitioner was tortured by her in-laws. In sum and substance, it has been argued that since petitioner is a lady and having a minor girl, it would be difficult for the petitioner to regularly attend the proceeding from Lakhisarai to Motihari in Divorce Case No. 142 of 2014.

7. Sri Madhurendra Kumar, learned counsel for opposite party/husband has vehemently opposed the prayer for the transfer of the case. It was submitted that all cases i.e. Lakhisarai P.S. Case No. 30 of 2014 and Misc. Case No. 13 of 2014 were filed by the wife only after filing of the divorce case, however; he has not disputed the fact that marriage of petitioner with opposite party was solemnized within the territorial jurisdiction of the court at Lakhisarai.

8. After hearing learned counsel for the parties and



considering the fact that petitioner is a lady and having a minor child, the Court appreciates her difficulty in attending the proceeding at Motihari from Lakhisarai. Accordingly, for just decision in the matter, it is required to interfere.

9. Accordingly, it is directed to transfer the record of Divorce Case No. 142 of 2014 from the court of Principal Judge, Family Court, East Champaran, Motihari to the court of Principal Judge, Family Court, Lakhisarai forthwith.

10. It is further directed that after receipt of the record at Lakhisarai, the petitioner will render full cooperation for early disposal of the divorce case.

11. The petition is allowed.

(Rakesh Kumar, J.)

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