

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2844 of 2014

IN

Matrimonial Reference No. 356 of 2013

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Supriya Kumari Wife of Rishikesh Kumar, Daughter of Prabhu Narayan Singh
Resident of Village - Sabalpur, Babhantoli, P.O.- Sabalpur, P.S.- Sonapur, District
- Saran at present residing at Village - Dighi Kala, East, Near Pachkorba Gacchi,
P.O.- Dighikala, P.S.- Sadar Hajipur, District - Vaishali

.... Petitioner

Versus

Rishikesh Kumar, Son of Chandeshwar Singh, Resident of Village - Sabalpur
Babhantoli, P.O.- Sabalpur, P.S.- Sonapur, District -Chapra

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Manish Chandra Gandhi, Advocate

For Opposite Party : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-09-2017

The present petition has been filed for transfer of
Matrimonial (Divorce) Case No. 356 of 2013 from the Court of learned
Principal Judge, Family Court, Chapra, Saran to the Court of learned
Principal Judge, Family Court, Vaishali at Hajipur.

2. The short facts of the case, according to the petitioner,
are that the parties were married on 02.05.2008 but subsequently, the
petitioner suffered cruelty and torture at the hands of the opposite
party and his family members and she was finally sent back to paternal
home in the district of Vaishali where she filed Complaint Case No.
2755 of 2010 giving rise to Sadar P.S. Case No. 343 of 2010 in the Court
of the learned Chief Judicial Magistrate, Vaishali at Hajipur for the
offence under Sections 498A, 323 and 341 of the Indian Penal Code and
Section 3/4 of the Dowry Prohibition Act which is pending in the court



of the learned Sub-Divisional Judicial Magistrate, Hajipur, Vaishali and that Maintenance Case No. 126 of 2010 was also filed by the petitioner and on notice being issued to the opposite party, the opposite party filed Matrimonial Suit No. 18 of 2011 under Section 13 of the Hindu Marriage Act before the learned Principal Judge, Family Court, Vaishali at Hajipur. A compromise was arrived at between the parties and Maintenance Case as well as the Divorce Case was withdrawn. However, once again torture and cruelty by the opposite party and his family members ensued and finally, the petitioner was ousted from the matrimonial home along with the young daughter. She returned to her *Naihar* and filed Maintenance Case No. 96 of 2013 before the learned Principal Judge, Family Court, Vaishali at Hajipur. Thereafter the opposite party once again filed Matrimonial (Divorce) Case no. 356 of 2013 this time in the court of learned Principal Judge, Family Court Chapra, Saran.

3. Learned counsel for the petitioner submits that she is a poor lady and has no independent source of income save and except Rs. 5000/- which she is receiving from the opposite party on the condition imposed for grant of anticipatory bail to the opposite party. The petitioner's father is a retired person and there is no other male member to accompany her to Chapra to contest the matrimonial case. In any event, the opposite party would be required to attend two cases instituted by the petitioner, Vaishali at Hajipur.

4. Despite service of notice, none has entered appearance



on behalf of the opposite party nor is he represented today despite repeated calls.

5. Having heard learned counsel for the petitioner and on careful consideration of the materials available on record, this Court finds merit in the petition. The petitioner is a lady residing at her parental house and has a small daughter to take care of and she would be put to great difficulty in traveling to Chapra to attend the subject matrimonial case. On the other hand, the opposite party will be required to attend the two cases instituted by her at Hajipur, Vaishali. The balance of convenience therefore lies in favour of the petitioner.

6. In the above view of the matter, this Court directs transfer of Matrimonial (Divorce) Case No. 356 of 2013 filed at the instance of the opposite party from the Court of learned Principal Judge, Family Court, Chapra, Saran to the Court of learned Principal Judge, Family Court, Vaishali at Hajipur for its disposal.

7. The petition stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12 .09.2017
Transmission Date	N.A.

