

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2927 of 2014

In

Matrimonial Reference No. 213 of 2013

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Smt. Anu @ Anu Kumari W/o Shri Pramod Kumar Prabhakar D/o Shri Jagdeo Prasad Mahto resident of Village Sahbajpur, P .S. Riga, District-Sitamarhi at present residing at Mohalla Bishnupuri, Chitkohara Anisabad, P.S. Garadanibag, District- Patna.

.... Petitioner

Versus

Shri Pramod Kumar Prabhakar S/o Shri Punyadeo Prasad Mahto, resident of village Sahbajpur, P.S. Riga, District- Sitamarhi.

.... Opp.Party

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Bhartee

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

5 15-05-2017

Heard Sri Shailendra Kumar Bhartee, learned counsel for the petitioner and learned counsel, who has appeared on behalf of Opp.Party/husband of the petitioner.

The petitioner has approached this Court under Section 24 of the Code of Civil Procedure with a prayer to direct for transferring of Divorce Case No.213/13 from the court of learned Principal Judge, Family Court, Sitamarhi to the court of learned Principal Judge, Family Court, Patna.

It was submitted by learned counsel for the petitioner that the petitioner's marriage with Opp.Party was solemnized on 09.12.1993 in the district of Patna. After the marriage, the petitioner was blessed with a female child,



Subsequently, the petitioner was being tortured and finally on 16.03.2009 she was ousted from her matrimonial house and, thereafter, she returned back to her parents' house. It was submitted that father of the petitioner is a retired employee of Municipal Corporation and petitioner with her child is residing at her parents' house in Patna. After being ousted, the petitioner had filed a complaint case for the offence under Section 498A and other allied Sections of the Indian Penal Code against Opp.Party/husband of the petitioner and other family members of her husband. Besides complaint, the petitioner has also filed maintenance case vide Matrimonial Case No.60 (M) 2010 on 29.03.2010. Sri Bhartee, learned counsel for the petitioner submits that since the petitioner had filed complaint case as well as maintenance case in the court at Patna, her husband with a view to further harass the petitioner has filed Divorce case, that too in the court at Sitamarhi, whereas in view of Section 19 of the Hindu Marriage Act, in normal course, Divorce Case was required to be filed at Patna. Besides this, it has been argued that being a lady, it would be difficult for the petitioner to regularly attend the proceeding from Patna to Sitamarhi court and, as such, a prayer has been made to transfer Divorce Case no. 213/13.

Learned counsel for Opp.Party has opposed the



prayer of the petitioner. At the very outset, it was argued that even without Judgment and decree of divorce, both parties; petitioner and her husband, have solemnized second marriage. However, on the record, there is no plausible material to establish the allegation. Even for the time being, if the submission of learned counsel for Opp.Party is treated as correct, such submission has got no relevance for adjudication of the present matter. In the present petition, the petitioner has prayed for transferring Divorce case from Sitamarhi court to Patna court.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. So far as submission of learned counsel for the Opp.Party regarding solemnization of second marriage, this Court is not taking any notice of such fact since those facts can well be examined by the court below. Considering the fact that the petitioner is a lady and residing with her parents' house as well as the fact that the marriage of the petitioner with Opp.Party was solemnized at Patna, in all fairness the Court is of the opinion that it would be difficult for the petitioner to regularly attend the proceeding at Sitamarhi from Patna.

Accordingly, the present petition is allowed. Let the record of Divorce Case no.213/13 be transferred from the court of



learned Principal Judge, Family Court, Sitamarhi to the court of
learned Principal Judge, Family Court, Patna forthwith.

It is made clear that after receipt of the record at
Patna, the petitioner shall render full co-operation for early
disposal of the case.

(Rakesh Kumar, J)

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