

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2029 of 2015

In

Matrimonial Reference No. 91 of 2013

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Punam Kumari D/o Sri Badri Prasad Soni, Resident of Village-Sonarpatti,
P.S.-Siwan Town, District-Siwan.

.... Petitioner/s

Versus

Pankaj Kumar Soni , S/o Sri Balram Prasad, Resident of Village-Yadopur,
P.S.-Yadopur, District-Gopalganj.

.... opposite party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava

For the opposite party/s : None

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 01-03-2017 In view of order dated 13.02.2017 petitioner has filed supplementary affidavit and in the supplementary affidavit it has been indicated that in the M.M. (Divorce) Case No.91 of 2013 which is pending in the court of Principal Judge, Family Court, Gopalganj only one witness was examined and thereafter the proceeding was stayed by this court. It was earlier observed by this Court that since even after valid service of notice, the opposite party had not appeared, on the next date even in absence of opposite party the court may proceed to hear the case ex- parte against the opposite party. None has appeared on behalf of the opposite party. Accordingly in view of earlier order, the case is being heard ex- parte against the opposite party.



Heard Sri Rakesh Kumar Shrivastava, learned counsel for the petitioner. The petitioner, is the wife of the opposite party and has approached this Court under Section 24 read with Section 151 of the Code of Civil Procedure with a prayer to direct for transferring M.M. (Divorce) Case No. 91 of 2013 from the court of Principal Judge, Family Court, Gopalganj to the court of Principal Judge, Family Court, Siwan.

It has been pleaded that petitioner's marriage with opposite party was solemnized on 12.3.2012. By way of referring to the plaint filed before the court below, learned counsel for the petitioner has drawn my attention that marriage of petitioner with opposite party was solemnized in Siwan itself. After the marriage, for some time, the petitioner led happy conjugal life, but immediately thereafter the opposite party took U- turn and started torturing the petitioner and finally, she was ousted from her matrimonial place. The petitioner after being tortured had filed a complaint case under Section 498(A) of the Indian Penal Code against the opposite party and other members of in-laws family. Subsequently, with a view to harass the petitioner the opposite party filed the present divorce case vide M.M. (Divorce) Case No. 91 of 2013. It has been argued that after being ousted from matrimonial house the petitioner is residing in Siwan with her old



parents. It was submitted by learned counsel for the petitioner that since marriage of the petitioner with opposite party was solemnized within the territorial jurisdiction of the Siwan court and the fact that petitioner is a lady , it is a fit case for directing for transferring the record of the case. He has also submitted that in view of provisions contained in Section 19 of the Hindu Marriage Act the case is required to be transferred to Siwan where marriage was solemnized and the place where petitioner after being ousted is residing with her parents.

Considering the facts and circumstances, the court is of the opinion that it is a fit case for directing for transferring the record. Accordingly, the petition is allowed.

Let the record of M.M. (Divorce) Case No. 91 of 2013 pending in the court of Principal Judge, Family Court, Gopalganj be transferred to the Principal Judge, Family Court, Siwan forthwith.

(Rakesh Kumar, J)

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