

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.188 of 2016

In

Matrimonial Reference No. 65 of 2015

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Kiran Kumari D/o Late Krishna Ram, W/o Kameshwar Das, residing at
Vikash Vihar Colony (Near by Brahamasthan), P.O. Dhanaut, P.S.
Rupaspur, District Patna

.... Petitioner

Versus

Kameshwar Das Son of Late Mahabir Das, of village Karua, P.S.
Chautham, District- Khagaria, at present residing at Mahananda Colony,
Janta Chowk, P.S. Khajanchi Hatt, District- Patna

.... Opp.Party.

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Appearance :

For the Petitioner/s : Mr. Durgesh Nandan, Adv.

Ms. Manish Prakash, Adv.

For the Respondent/s : Mr. Diwakar Yadav, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 27-02-2017 Heard Ms. Manish Prakash, learned counsel for the

petitioner and Sri Diwakar Yadav, learned counsel for

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 Matrimonial Suit No.65/2015 from the court of
Principal Judge, Family Court, Khagaria to the court of Principal
Judge, Family Court, Patna.

Short fact of this case is that the petitioner's
marriage with Opp.Party was solemnized in the year 2008. It has
been pleaded that at the time of marriage, the petitioner was



employed as Clerk in the State Bank of India, whereas the husband of the petitioner was unemployed. For some time, she lead peaceful conjugal life and from the wedlock, the petitioner was blessed with two sons. However, subsequently, Opp.Party on trivial issues started abusing the petitioner and, thereafter, the petitioner left with no option filed a complaint before Mahila Police. The husband appeared and executed a bond with undertaking that he will never abuse either the petitioner or her other family members. A copy of the bond has been brought on record as Annexure-2 to the present petition. The bond was signed on 23.08.2015. Prior to filing of the bond, the petitioner was already abused and thereafter the husband with a view to further harass the petitioner filed a petition in the garb of restitution of conjugal right under Section-9 of the Hindu Marriage Act vide Matrimonial Suit No.65 of 2015.

It has been argued by learned counsel for the petitioner that the petitioner is presently posted as an Officer in the State Bank of India at Patna and she is living with her old widow ailing mother. According to learned counsel for the petitioner, the petitioner being lady may face great hardship in pursuing the proceeding at Khagaria from Patna and, as such, a prayer has been made for transferring the record of Matrimonial Suit no.65/2015



from Khagaria to Patna.

Sri Diwakar Yadav, learned counsel for Opp.Party has vehemently opposed the prayer of the petitioner. He submits that the husband/Opp.Party wants for restitution of conjugal right. According to learned counsel for Opp.Party, the petitioner is voluntarily not residing with her husband and, thereafter, the husband was constrained to file the suit for restitution of conjugal right at Khagaria. He also submits that the husband is under threat and it would be difficult for him to appear at Patna. He also takes same plea that he is living with his 80 years old mother as well as one son.

Besides hearing learned counsel for the parties, I have also perused the materials on record. It has not been disputed that the petitioner is an officer in the State Bank of India and presently she is posted at Patna. It has also not been disputed that the petitioner is residing at Patna with her old widow mother. In view of facts and circumstances, the Court is of the opinion that the petitioner being a lady, in normal course it would be difficult for her to regularly participate in the proceeding at Khagaria from Patna and, as such, for just decision, the Court is of the opinion that it is a fit case for directing for transferring the record of Matrimonial Suit No.65/2015 from Khagaria to Patna.



Accordingly, the petition stands allowed with a direction to transfer the record of Matrimonial Suit No.65/2015 from the court of Principal Judge, Family Court, Khagaria to the court of Principal Judge, Family Court, Patna forthwith. It is further directed that after receipt of record from Khagaria to Patna, the petitioner will take all steps for early disposal of the case at Patna.

(Rakesh Kumar, J)

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