

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1888 of 2014

In

Matrimonial Ref. No.94 of 2009

Minu Kumari Wife of Sri Mritunjay Kumar Singh Resident of Village -
Mohalla - Ratanpura, Lallu More, P.S.- Bhagwan Bazar, District - Siwan

... .. Petitioner/s

Versus

Mirtunjay Kumar Singhf @ Chunmun Son of Sri Laxman Ri Resident of
Village - Chilhari, P.S.- Dumaron, District - Buxar, presently residing at
houseing colony, MIG - 6 west of new police line, Ara, P.O. + P.S.- Ara,
District - Bhojpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rakesh Narayan Singh, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 13-10-2017

This application has been filed for transfer of
Restitution Case No.94 of 2009 filed by the respondent from the
court of learned Principal Judge, Family Court, Bhojpur at Ara to
Family Court, Saran at Chapra, mainly on the ground that much
prior to filing of this case in 2009 petitioner had already initiated
proceedings under Section 498A I.P.C. and a case for maintenance
in the Family Court, Saran at Chapra. On the ground that



petitioner's case which was filed at an earlier point of time is pending in Saran, the application has been filed for transfer and these were the only submission made by learned counsel appearing for the petitioner during the course of hearing.

However, on perusal of the record and petitioner's own pleadings, the aforesaid contention is found to be wholly misconceived and unsustainable. Even though petitioner in para 6 submits about filing of a complaint for the offence under Section 498A of I.P.C. at Bhagwanpur Bazar Police Station, neither the copy of the F.I.R. is filed nor any proceedings with regard to institution of this case are indicated.

As far as the second case i.e. for maintenance is concerned, copy of the application filed for maintenance is Annexure 2 to the transfer application and this is a case instituted for maintenance in the court of Family Court, Saran being Case No.39 of 2011 and this was instituted on 29.4.2011, much after the case for restitution of conjugal rights was filed by the respondent vide Restitution Case No.94 of 2009 on 7.7.2009 vide Annexure 1.

That being so, the grounds raised in the application for transfer of the case is not substantiated by the petitioner from the pleadings and materials brought on record and merely because



it is convenient for the petitioner to have the case near her place of residence, no case is made out for transfer of the proceedings.

The application is, therefore, dismissed.

(Rajendra Menon, CJ)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	28.10.2017
Transmission Date	

