

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 3849 of 2013

In
Matrimonial Reference No. 107 of 2013

=====

Shabana Akhtar Wife of Ishraful Haque Resident of Mohalla- Loharwa
Tola Ghat Lane, Police Station- Alamganj, District- Patna

.... Petitioner

Versus

1. The State of Bihar through the D.M. Gaya.
2. Md. Ishraful Haque son of Md. Hussain, Resident of Mohalla- Aliganj
Road No. 1, Police Station- Chandauti, District- Gaya.

.... Opp. Parties

=====

Appearance :

For the Petitioner/s : Mr. Md. Mushtaque Alam

For the Opp. Party/s : Mr. Sanjay Kumar Mishra

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

10. 06-02-2017 Heard Md. Mushtaq Alam, learned counsel for the
petitioner and Sri Sanjay Kumar Mishra, learned counsel for
opposite party no. 2/husband of the petitioner.

The petitioner has approached this Court under
Section 24 of the Code of Civil Procedure, 1908, with a prayer to
direct for transferring Matrimonial (Divorce) Case No. 107 of 2013
from the court of Principal Judge Family Court, Gaya to the court of
Principal Judge, Family Court, Patna.

Short fact of the case is that petitioner's marriage with
opposite party no. 2 was solemnized on 10-10-2012. Within few
months, dispute in between the parties arose and finally, the
petitioner was ousted from her in-laws' house in the month of
March, 2013. Since it was a case of torture, the petitioner, after



being ousted, filed a complaint case, vide Complaint Case No. 269 of 2013 against her husband and her in-laws member for offence under Sections 323, 147, 148, 379, 498 (A), 504, 506/34 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, 1961. The said complaint was filed in the court of learned Addl. Chief Judicial Magistrate, Patna City and the same is pending.

It has been argued by learned counsel for the petitioner that only with a view to further harass the petitioner, the husband has filed divorce case, which was filed on 16-04-2013 in the court of Gaya. It has been emphatically argued that marriage was solemnized at Patna and the complaint case is still pending at Patna, in which the opposite party no. 2 has already appeared.

According to learned counsel for the petitioner, being lady, it would be difficult for the petitioner to regularly attend a proceeding at Gaya from Patna and as such, a prayer has been made for transferring the record.

Sri Mishra, learned counsel for opposite party no. 2 has opposed the prayer for transfer and suggested that the case may be transferred outside Patna or Gaya to any third court.

Besides hearing learned counsel for the parties, I have also perused the materials on record. Considering the fact that marriage of the petitioner with opposite party no. 2 was solemnized within the jurisdiction of Patna court and the fact that



after being ousted, she had filed a complaint case in Patna and the case is pending at Patna, it would be desirable for directing the Matrimonial (Divorce) Case No. 107 of 2013 to be transferred from the Gaya to Patna so that both the parties may appear at one place for its early disposal.

Accordingly, keeping in view the fact that petitioner is lady, the Court appreciates her difficulty in appearing before a court at Gaya from Patna and as such, the petition is allowed.

It is directed to transfer the record of Matrimonial (Divorce) Case No. 107 of 2013 from the court of Principal Judge Family Court, Gaya to the court of Principal Judge, Family Court, Patna within a period of eight weeks from the date of receipt/production of a copy of this order.

It goes without saying that petitioner shall render full cooperation to the court below for early disposal of the divorce case after the record is received at Patna.

The petition is allowed.

(Rakesh Kumar, J.)

Anay

U		T	
---	--	---	--

