

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4311 of 2013

In
Matrimonial Reference No. 174 of 2012

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Puja Kumari, D/o Sri Ramadhar Prasad, resident of Court Bazar, Ward
no.15, District- Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through Secretary, Law Department, Bihar, Patna
2. Gopal Krishna, son of Sri Chandra Kishore Singh, resident of village-
Parsarma, P.S. Supaul, District-Supaul

.... Opp.Parties.

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Verma

For the Respondent/s : Mr. Shashi Bhushan Kr.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

9 25-04-2017 Heard Smt. Madhubala Verma, learned counsel for

the petitioner and Mr. Ashhar Mustafa, learned counsel for

Opp.Party no.2.

The petitioner has approached this Court under
Section 24 of the Code of Civil Procedure with a prayer to transfer
Matrimonial Case No.174/2012 from the court of Principal Judge,
Family Court, Saharsa to the court of Principal Judge, Family
Court, Sitamarhi.

The petitioner has alleged that she was never
married with Opp.Party no.2, rather Opp.Party no.2 had earlier
kidnapped her and committed rape. On the basis of complaint
Case No. 558 /2013, a police case has been registered as Sitamarhi
P.S. Case No. 491/2013 under Sections



363/366A/467/468/376/342/506/509/34 of the Indian Penal Code.

According to learned counsel for the petitioner, in the police case the police after investigation found the case true and submitted chargesheet against Opp.Party no.2. It has been argued that only with a view to further harass the petitioner, a case under Section 9 of Hindu Marriage Act on the pretext of restitution of conjugal right has been filed by Opp.Party no.2 in the court of Principal Judge, Family Court, Saharsa. According to learned counsel for the petitioner, in any event, since the petitioner is a lady, it would be difficult for her to regularly attend the proceeding in the court at Saharsa and, as such, a prayer has been made for transferring the record.

Learned counsel for Opp.Party no.2 submits that only after noticing the fact that restitution case was filed by Opp.Party no.2, the petitioner filed a false complaint case, which was referred to the police for its registration and investigation under Section 156(3) of the Code of Criminal Procedure. However, during investigation the accusation against all other accused persons, save and except Opp.Party no.2 was found untrue and other accused persons were exonerated. However, learned counsel for the petitioner admits that chargesheet was submitted against the petitioner. He further submits that a false



plea has been taken that the marriage was never solemnized.

However, keeping in view the fact that the petitioner is a lady as well as the fact that she is residing at Sitamarhi, in all fairness, the Court proposes to direct for transferring the record of Matrimonial Case no. 174/2012 from the court of Principal Judge, Family Court, Saharsa to the court of Principal Judge, Family Court, Sitamarhi .

Accordingly, the petition is allowed with a direction to transmit the record of the aforesaid case forthwith.

(Rakesh Kumar, J)

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