

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3780 of 2014

In
Matrimonial Reference No. 5031 of 2014

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1. Shaista Begum @ Simran Minor daughter of Firoz Akhtar under the guardianship of her mother and natural guardian Smt. Razia Begum
2. Firoz Akhtar Son of Late Md. Abdul Majid
3. Smt. Razia Begum Wife of Firoz Akhtar
All residents of Mohalla Fatehpur, P.S. Zeromile, District Bhagalpur

.... Petitioner/s

Versus

Md. Imteyaz Uddin @ Bantee Son of Md. Shafiqueuddin resident of Mohalla Shah Ki Imli, P.O. Jhauganj, P.S. Khajekalan, District Patna

.... opposite party /s

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Appearance :

For the Petitioner/s : Mr. Dr. Manoj Kumar
For the opposite party /s : Mr. Imtiyaz Ahmad

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 14-02-2017 Heard Dr. Manoj Kumar, learned counsel for the petitioners and Mr. Md. Imtiyaz Ahmad, learned counsel, who has appeared on behalf of the opposite party /husband of the petitioner no. 1.

The petitioner, has approached this Court under Section 24 of the Code of Civil Procedure with a prayer to direct for transferring Matrimonial Case No. 5031 of 2014 filed by opposite party under Section 281 of Mohammedan Law and Section 7 of the Family Courts Act from the court of learned Principal Judge, Family Court, Patna to the Court of learned Principal Judge, Family Court, Bhagalpur.



It has been plead that the opposite party was maternal uncle of the petitioner no. 1. There is allegation that the opposite party had kidnapped the petitioner no. 1 on 6.11.2013. As per pleading the petitioner no. 1 was minor and thereafter on the basis of written complaint filed by the petitioner no. 2/ father of petitioner no. 1 an F.I.R. vide Bhagalpur Industrial Area P.S. Case No. 43 of 2013 was registered for offence under Section 366-A of the Indian Penal Code . After noticing the fact that a criminal case was instituted against the opposite party, the opposite party started threatening the petitioners side and as such one another case was instituted against the opposite party vide Bhagalpur Mahila P.S. Case No. 241 of 2014 under Section 385 / 387 of the Indian Penal Code and Section 66-A of the I.T. Act. Orally it was submitted by learned counsel for the petitioners that after investigation charge sheet has already been submitted and even trial has commenced after framing of charge against the opposite party. According to learned counsel for the petitioners with a view to create a defence a false case was filed before the Patna court in the garb of restitution of conjugal life. In any event it has been argued that petitioner no. 1 who has been alleged as wife of the opposite party was minor and for her it would be difficult to participate in a proceeding at Patna from Bhagalpur. Accordingly



a prayer has been made for transferring the record from Patna to Bhagalpur.

Mr. Imtiyaz Ahmad, learned counsel for the opposite party has opposed the prayer for transfer. He submits that now the petitioner no. 1 has attained majority and as such there would be no difficulty for her to appear at Patna court. However he has not disputed the fact that in the criminal case which was initiated as per instance of the petitioners' side the opposite party has already appeared before the court at Bhagalpur.

In view of the facts and circumstances the court considers it a fit case for directing for transferring the case record of Matrimonial Case No. 5031 of 2014. Accordingly it is directed to transfer the Matrimonial Case No. 5031 of 2014 from the court of Principal Judge, Family Court, Patna to the court of Principal Judge, Family Court, Bhagalpur forthwith.

The petition stands allowed.

(Rakesh Kumar, J)

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