

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.56 of 2016

In
Matrimonial Reference No. 840 of 2015

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Vagisha Kumari @ Khushboo wife of Sri Amresh Kumar and D/o Sri Kumar Vijay Krishna Braj Raj, Resident of Village- Yadav Colony, Daudnagar, P.O.+P.S.- Daudnagar, Dist- Aurangabad.

.... Petitioner

Versus

Amresh Kumar S/o Sri Awadhesh Prasad Singh Vill- Dilawarpur, P.S.- Haspura Dist- Aurangabad at present C/o Baiju Yadav, Magadh Colony, Kurji, P.O. Sadaquat Ashram Digha Dist- Patna.

.... Opp.Parti..

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Appearance :

For the Petitioner/s : Mr. Anil Kr Singh No. 6

For the Respondent/s : Mr. Chandra Mohan Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 03-05-2017 Heard Sri Anil Kumar Singh, learned counsel for the petitioner and Sri Chandra Mohan Jha, learned counsel, who appeared on behalf of 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 record of Matrimonial Case no. 840/2015 from the court of Principal Judge, Family Court, Patna to the court of Principal Judge, Family Court, Aurangabad. It has been stated that the petitioner's marriage with Opp.Party was solemnized on 29.05.2014. Subsequently from the wedlock, the petitioner has been blessed with a female child and, thereafter, the petitioner was tortured by Opp.Party. It has been alleged that the petitioner has



filed a criminal case vide Daudnagar P.S. Case no.205/2015 for the offence under Sections 341, 323, 498(A), 34, 379 of the Indian Penal Code and Sections 3 /4 of the Dowry Prohibition Act against Opp.Party and his family members. Besides filing of criminal case, the petitioner has also filed Maintenance Case No.204/2015 in the court of Principal Judge, Family Court, Aurangabad.

Learned counsel for the petitioner has drawn my attention to paragraph-5 of the plaint of Matrimonial Case no.840/2015, which was filed by Opp.Party. He submits that this case was filed by Opp.Party in the court of Principal Judge, Family Court, Patna, whereas the husband of the petitioner himself has accepted that his marriage with the petitioner was solemnized within the territorial jurisdiction of Aurangabad court. It has also been argued that even at the time of filing of Matrimonial case, the petitioner was residing within the jurisdiction of Aurangabad court. According to learned counsel for the petitioner, under Section 19 of the Hindu Marriage Act, the Opp.Party was required to file suit before the court at Aurangabad not at Patna. It has been argued that both petitioner and Opp.Party are permanent residents of the district of Aurangabad.

Sri Chandra Mohan Jha, learned counsel for



Opp.Party has opposed the prayer of the petitioner. He submits that after noticing the fact that Opp.Party has filed divorce case at Patna, with a view to harass the Opp.Party, the petitioner has subsequently filed criminal case at Aurangabad and also filed Maintenance case in the court of Aurangabad. Learned counsel for Opp.Party, by way of referring the Annexure-C to the counter affidavit, submits that on perusal of the ordersheet in maintenance case, it is evident that the petitioner after filing of the maintenance case is not taking any step for disposal of the maintenance case since on number of dates, there was non-appearance of the petitioner.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. On perusal of of the plaint i.e. Annexure-1 to the present petition , particularly the statement made in paragraph-5 of the plaint, it is evident that the marriage of the petitioner with Opp.Party was solemnized at Aurangabad. It has also been stated that at the time of filing of the suit at Patna, the petitioner was residing with her parents at Aurangabad.

Keeping in view the fact that the petitioner is a lady, in normal course it would be difficult for the petitioner to regularly attend the proceeding at Patna from Aurangabad. In view



of provision of Section 19 of the Hindu Marriage Act as well as the fact that the petitioner is a lady, the Court is of the opinion that it is a fit case for transferring the record of Matrimonial Case no.840 of 20/2015 from Patna to Aurangabad. Accordingly, the petition is allowed.

Let the record of Matrimonial Case no.840/2015 be transferred from the court of Principal Judge, Family Court, Patna to the court of Principal Judge, Family Court, Aurangabad forthwith.

It is made clear that after receipt of record of Matrimonial Case No.840/2015 at Aurangabad, the petitioner shall render full co-operation for early disposal of the case. It is further clarified that in case, the petitioner fails to render full co-operation to the court below, the learned court below would be at liberty to proceed with the case even ex parte against the petitioner and decide the case expeditiously.

(Rakesh Kumar, J)

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