

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18128 of 2016

Arising Out of PS.Case No. -233 Year- 2014 Thana -BAGHA District-
WESTCHAMPARAN (BETTIAH)

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Dr. Shashi Kala, Wife of Dr. Rudra Narayan Pandey and
Daughter of Sri Ramesh Kumar Tiwary, Resident of – 532,
Nehru Nagar, Patna-800013, P.S.-Patliputra Colony, Town +
District-Patna.

.... Informant/Petitioner
Versus

1. The State of Bihar.
 2. Dr. Rudra Narayan Pandey, Son of Dr. T.N. Pandey.
 3. Prabhu Narayan, Son of Dr. T.N. Pandey.
- Both are resident of Village-Ratanmala, P.O. + P.S.-Bagha,
District-West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Arun, Adv.
For the State : Mr. Parmanand Kumar, APP
For O.P. Nos. 2 and 3 : Mr. Suraj Nr. Pd. Sinha, Sr. Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

4 09-01-2017

Heard the parties.

By filing this present application, under Section



407 of the Code of Criminal Procedure, 1973, the petitioner seeks transfer of Bagha P.S. Case No. 233 of 2014 to any other Court of equivalent jurisdiction under the district Judgeship of Patna.

The petitioner is the wife of opposite party No. 2. Two grounds have been taken for transfer of the said case by the petitioner in the present application. It has firstly been submitted that the opposite parties are influential people and because of their influence, at Bagha, a fair trial at the said place is not possible. It has secondly been submitted that the petitioner is a lady residing at Patna and, therefore, it will be inconvenient for her to peruse her case before Bagha Court.

Learned counsel for the petitioner has submitted that the fact that the police upon completion of investigation have exonerated the opposite parties, shows that the opposite parties are influential persons and have exercised their influence.

In my opinion, none of the grounds taken on behalf of the petitioner, as noted above, can be valid grounds for transfer of a criminal case in the facts and circumstances of the present case. The averments, which have been made in the application, are also not very specific. I do not



consider the ground so taken to be sufficient for allowing transfer of the case, exercising power under Section 407 of the Code of Criminal Procedure, 1973, in view of the Supreme Court decision, in case of ***Jyoti Mishra Vs. Dhananjaya Mishra, reported in (2010) 8 SCC 803***, paragraph Nos. 5 and 6 of which reads thus:-

"5. It is true that in cases of dissolution of marriage, restitution of conjugal rights or maintenance, this Court shows much indulgence to the wife and ordinarily transfers the case to a place where it would be more convenient for the wife to prosecute the proceedings. But a criminal case is on a somewhat different footing. The accused may not be able to attend the court proceedings at Indore for many reasons, one of which may be financial constraints, but the consequences of non-appearance of the accused before the Indore Court would be quite drastic.

6. Having regard to the consequences of non-appearance of the accused in a criminal trial, we are loath to entertain the petitioner's prayer for transfer. In a criminal proceeding, the right of the accused to a fair trial and a proper opportunity to defend himself cannot be ignored for the convenience of the complainant simply because she



happens to be the estranged wife.”

This application has no merit and is, accordingly,
dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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