

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.5528 of 2013

IN

Matrimonial Reference No. 269 of 2013

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Sangita Kumari wife of Kumar Chandan daughter of Shiv Shankar Thakur
resident of village/Mohalla - Raj Kumar Ganj, P.O.- Darbhanga (Near Allahabad
Bank Darbhanga) P.S. University Campus, District Darbhanga

.... Petitioner

Versus

Kumar Chandan son of Shiv Shankar Thakur, resident of village - Bhatwara
Ganga Sagar, P.S. and District- Madhubani

.... Opposite Party

With

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Miscellaneous Jurisdiction Case No. 5575 of 2013

IN

Matrimonial Reference No. 269 of 2013

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Sangita Kumari Daughter of Shiv Shankar Thakur resident of Mohalla - Raj
Kumar Ganj, P.S. - Town Darbhanga, District- Darbhanga.

.... Petitioner

Versus

Kumar Chandan Son of Shiv Shankar Thakur resident of village - Bhatwara
Ganga Sugar, P.S. and District - Madhubani.

.... Opposite Party

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Appearance :

(In MJC No.5528 of 2013)

For the Petitioner : Mr. Ratan Kumar Kumar

Mr. Sanjeev Kr. Jha, Advocates

For Opposite Party : Mr. Dharendra Kr. Jha, Advocate

(In MJC No.5575 of 2013)

For the Petitioner : Mr. Ratan Kumar Kumar

Mr. Sanjeev Kr. Jha, Advocates

For Opposite Party : Mr. Dharendra Kr. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-07-2017

Since the similar issue in both the petitions has been
raised, they have been heard together and are being disposed of by this
common judgment at the stage of admission itself.

2. Both the petitions have been filed for transfer of Case



No. 04 of 2013 as well as Matrimonial Case No. 269 of 2013, both filed at the instance of the opposite party, pending in the court of the learned Principal Judge, Family Court, Madhubani to the court of the learned Principal Judge, Family Court, Darbhanga.

3. The short facts of the case, according to the petitioner, are that marriage was solemnized between the parties on 11.07.2008 but soon thereafter demands for dowry were made by the opposite party and his family members and for non-fulfillment thereof, the petitioner was tortured and ousted from her matrimonial home.

4. Learned counsel for the petitioner submits that the petitioner has since been residing at her paternal house at Darbhanga with her 7 year old son who is studying at Harrow English School Darbhanga. The petitioner is a lady suffering from various diseases and so also her father is a retired person undergoing medical treatment for several ailments. It is stated that the opposite party had earlier filed Matrimonial Case No. 288 of 2012 in the court of the Principal Judge, Family Court, Madhubani seeking divorce. The petitioner appeared in that case and ultimately preferred Maintenance Case No. 81 of 2013 under Section 125 of the Code of Criminal Procedure and also filed a complaint case, namely, C.R. Case No. 408 of 2013, both at Madhubani. It is submitted that the opposite party thereafter filed a restitution petition under Section 9 of the Hindu Marriage Act, 1955 registered as Matrimonial Case No. 269 of 2013 before the learned Principal Judge,



Family Court, Madhubani only to save his skin and also filed Matrimonial Case No. 04 of 2013 for custody of his minor son in terms of Sections 7 and 17 of the Guardians & Wards Act, 1890 read with Section 13 of the Hindu Minority and Guardianship Act, 1956. It is therefore submitted that in view of the difficulty that the petitioner would face in going to Madhubani to contest Matrimonial Case No. 269 of 2013, the same be transferred to Darbhanga.

5. Learned counsel for the opposite party appears and opposes the petitions submitting that he has filed Matrimonial Case No. 269 of 2013 seeking restitution of conjugal rights and the petitioner ought to have come back to her matrimonial home and resume harmonious matrimonial life, as he is ready to keep her with full dignity and honour.

6. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court is not inclined to accede to the prayer of the petitioner. It is not in dispute that the petitioner herself has filed Maintenance Case No. 81 of 2013 for maintenance and also filed a complaint case, namely, C.R. No. 408 of 2013 alleging cruelty on the part of the opposite party and his family members, both at Madhubani itself and as such she will be required to pursue the matters at Madhubani. There appears little reason why the petitioner cannot also attend the court at Madhubani to contest Matrimonial Case No. 04 of 2013 as well. It is informed by the parties



that the geographical distance between Madhubani and Darbhanga is only around 40 kilometers with adequate public transport facilities, and thus it may not cause insurmountable difficulty for the petitioner.

7. Both the petitions are accordingly dismissed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.07.2017
Transmission Date	N.A.

