

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4392 of 2016

=====

Rita Devi @ Reeta Devi @ Veena Devi, Wife of Sri Vikash Kumar,
Daughter of Sri Suresh Sharma, resident of Village- Rasulpur, P.O. & P.S.-
Banjari, District- Rohtas at Present Assistant Teacher Government School,
Hurka, P.O. & P.S. Tilouthu, District- Rohtas.

.... Petitioner/s

Versus

Vikash Kumar, Son of Sri Bhuneshwar Prasad Sharma @ Bhuneshwar
Sharma, Resident of Mohalla- Shahpur, Tikari Road Near Akhara, P.S.
Town, District- Aurangabad, (Bihar), At Present Assistant Loco Pilot,
Pratapgarh Mandal Railway , P.O. & P.s. Pratapgarh, District- Pratapgarh
(U.P).

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Manish Kumar No 13, Adv.
Mr. Rohit Kumar, Adv.
For the Respondent/s : Mr. Bhaskar Shankar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD
ORAL ORDER

6 05-09-2018 Heard learned counsel for the parties.

Petitioner, in the present case, is seeking transfer of
Matrimonial Case No. 115 of 2016 from the Court of learned
Principal Judge, Family Court, Aurangabad to the Court of learned
Principal Judge, Family Court, Rohtas.

The case has been brought by the husband of the
petitioner who is serving as an Assistant Loco Pilot in Railways
and is presently posted at Pratapgarh Railway Mandal in the State
of Uttar Pradesh. It is the case of the petitioner that she is facing
difficulties in attending the Court proceeding at Aurangabad. It is



also alleged that she has got threat to her life and has got apprehension that fair and impartial trial would not be concluded at Aurangabad. Learned counsel representing the petitioner submits that earlier the petitioner had filed a case with Mahila Police Station, Bokaro. A compromise was entered into in the said case which was reduced in writing vide Annexure 4 to the application but later on the Opposite Party has not adhered to the said compromise. It is submitted that the Opposite Party had filed a Matrimonial Case under Section 9 of the Hindu Marriage Act for restoration of conjugal rights by suppressing the material facts relating to the reconciliation process which were going on between the parties before the Mahila Police Station. It is submitted that pursuant to the compromise when the petitioner was taken to Pratapgarh she was tortured and because of that torture she came back to Aurangabad.

The petitioner also filed an application before the learned Principal Judge, Family Court, Aurangabad, praying to dismiss the Matrimonial Case brought by the Opposite Party. The said application was, therefore, dismissed and when the Opposite Party challenged the order passed by the learned Principal Judge, Family Court, Aurangabad, in Miscellaneous Appeal No. 101 of 2015, the same was also dismissed. The petitioner has lodged a case under



Section 498 A of the I.P.C and Section 34 of the Dowry Prohibition Act in the Court of learned Chief Judicial Magistrate, Rohtas, against the Opposite Party and her in-laws. Learned counsel also submits that cognizance has been taken in the said complaint case and the Opposite Party has been summoned.

On the other hand, learned counsel representing the Opposite Party submits that in the facts of the present case, the interest of the Opposite Party is also required to be balanced while considering the interest of the petitioner. It is submitted that the Opposite Party is serving at Pratapgarh in the State of Uttar Pradesh, whereas, the petitioner is serving as a Block Teacher in Government School, Hurka, Tilauthu, District- Rohtas. The distance between Sasaram to Aurangabad is hardly about 60 KM and it is only one hour journey. The petitioner is getting salary as Assistant Teacher and she is also getting the maintenance amount of Rs.10,000/- per month as per the direction of learned Additional Chief Judicial Magistrate-3rd, Aurangabad in Domestic Violence Case No. 4 of 2015 on 19.07.2016. Learned counsel submits that in fact the petitioner had herself brought the Domestic Violence Case at Aurangabad and even in this case she has appeared and participated in the proceeding on several dates before moving to this Court for transfer of the case. It is submitted that the



inconvenience to the Opposite Party will be much more than the present petitioner if the case is transferred to the Court at Sasaram.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that it is not a fit case to be transferred from the Court at Aurangabad to the Court at Sasaram. The reasons would be that the distance between the two places is only 60 K.M. and it takes only one hour in journey from one side. The petitioner is working at a much closer distance from the Court at Aurangabad compared to the distance which the Opposite Party will have to cover from his present place of posting. This Court also finds that it is not a case where the petitioner can claim that she has any difficulty in moving outside the place of her posting and/or that she has any financial constraints in contesting the matter at Aurangabad. The petitioner is herself a Block Teacher, earning salary besides she is also getting maintenance of Rs.10,000/- per month from the Opposite Party. It is also found that she had herself chosen to file Domestic Violence Case at Aurangabad and had fought the same against the Opposite Party successfully.

This being the position, when this Court considers the position of the parties, it is found that the case is not required to be transferred.



The contempt application is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha.

U			
---	--	--	--

