

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31094 of 2018

Arising Out of PS.Case No. -2488 Year- 2012 Thana -DARBHANGA COMPLAINT CASE
District- DARBHANGA

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1. Sanjeet Kumar Agarwal S/o Raj Kumar Agrawal, R/o B-404, Aashiana Apartments, Mayur Vihar Phase 1 Extention Delhi, 110091, Presently Residing at D-204, EF, Sushant Lok-2, Sector -56, Gurgaon.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mrs. Mukta Agrawal D/o Vijay Kumar Saraf, R/o Mohalla- New Balbhadrapur, P.S.- Laheriasarai, District- Darbhanga, Presently residing at F- 303, Green Vista, Atghora, Rajarhat, Kolkata.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey

For the Opposite Party/s : Mr. Sri Uday Chand Prasad

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 08-08-2018 Heard learned Counsel for the petitioner and the learned Counsel for the State.

Application under Section 407 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') has been filed by the petitioner Sanjeet Kumar Agrawal, who happens to be one of the accused of Complaint Case No. 2488 of 2012 filed by his wife Mrs. Mukta Agrawal for transferring the aforesaid complaint case from the Judgeship of Darbhanga to the Judgeship of Patna for the sake of convenience of both parties.

Learned Counsel for the petitioner submits that the fact remains that the wife Mukta Agrawal is in some private job residing in Kolkata and the husband is presently employed in New Delhi.

Learned Counsel for the petitioner further submits that earlier a divorce suit was filed by the husband in the Kakarduma Court in Delhi which was transferred to Family Court, Muzaffarpur on the application filed by the wife considering the threat and danger



to the life of the husband while the wife had prayed for transferring the case to Darbhanga.

In the matter relating to transfer of cases from one Session Division to another in purview of Section 407 of the Code, only in three situations a case can be transferred from one criminal court to another within the jurisdiction of the High Court, the provision reads as under:-

“407. Power of High Court to transfer cases and appeals- (1) Whenever it is made to appear to the High Court –

- (a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or
- (b) that some question of law of unusual difficulty is likely to arise, or
- (c) that an order under this section is required by any provisions of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice.”

In the present case the complaint was filed by wife of the petitioner/ O.P. No. 2 before the CJM Darbhanga and the copy of the complaint clearly reflects wife’s permanent and present address mentioned in the complaint is at Darbhanga. Not only that in addition all the witnesses mentioned in the complaint are also resident of the same place.

Perused the order of Hon’ble Apex Court at Annexure 2 passed in Transfer Petition No. 678 of 2010. The submission raised by the learned Counsel for the petitioner is not supported by the said order of the Apex Court rather it is contrary to it as the wife expressed apprehension of danger to her life if the divorce suit filed by the husband was allowed to be tried at Kakarduma Court Delhi,



so the case was transferred to Family Court at Muzaffarpur. There is nothing on the record to show that the petitioner (husband) has any threat or apprehension to his life at the hands of his wife and other family members.

Considering the entire facts of the case no cogent ground is found for transferring the case from Darbhanga judgeship to Patna Judgeship rather it is expedient in the interest of justice and to the convenience of witnesses of the complaint case, all resident of Darbhanga, that the trial be continued there.

So, the application stands dismissed.

(Arun Kumar, J)

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