

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11602 of 2017

Arising Out of PS. Case No.- Year-1111 Thana- District-

Jabitara Devi

... .. Petitioner/s

Versus

State Of Bihar and Anr

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Xxxxxx

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

10 10-03-2021 The Principal Judge, Family Court, Araria had written a letter to the Registrar (Vigilance), Patna High Court on 25.05.2016 stating that Jabitara Devi/petitioner was aggrieved by a judicial order passed by the court in a proceeding under Section 125 of the Code of Criminal Procedure.

When he realized that it was difficult for him to conduct the proceedings in the case, he made a request to the High Court through the Registrar (Vigilance), Patna High Court to relieve him of his assignment to deal with the aforesaid matter.

Another letter appears to have been sent by the Principal Judge, Family Court, Araria dated 15.06.2016, reiterating the same request and further requesting this Court to transfer the Maintenance Case No. 130M of 2011 to any other neighbouring district.

The reason assigned this time also was the quarrelsome and cantankerous approach of the



spouses/parties and the husband being a local advocate of the court.

On the basis of the aforesaid letter dated 15.06.2016, the present proceeding *vide* Cr. Misc. No. 11602 of 2017 was registered under Section 407-II of the Code of Criminal Procedure, 1973.

On 20.06.2017, a Bench of this Court recorded his satisfaction that in the facts and circumstances of the case, the proceeding arising out of Maintenance Case No. 130M of 2011 pending in the court of the Principal Judge, Family Court, Araria needed to be transferred to any other appropriate court of equal jurisdiction. The registry was directed to issue notice to the petitioner as well as opposite party no. 2 and the proceedings in the aforesaid Maintenance Case No. 130M of 2011 was stayed.

In the meantime, the Presiding Officer got changed and this Court *vide* order dated 24.01.2018, taking into account that the counsel for the petitioner did not press the petition, permitted the case to be withdrawn. Perhaps this Court missed out on the fact that the case was not registered on the application of the petitioner but on the communication made by the Principal Judge, Family Court, Araria. In that event, this petition could not have been withdrawn as it was registered *suo motu* on the communication by the



Presiding Officer, Family Court as noted above.

Now also, the same situation continues and the present Presiding Officer, Family Court, Araria has again written a letter on 24.12.2020 that it is very difficult for him to decide the case which has remained pending for the last eleven years.

A frantic request therefore, has been made for transferring this case to any court of competent and equal jurisdiction to some other district.

I have perused the entire records and have also heard the learned counsel for the parties. The counsel appearing for the spouses have various grievances against each other but not against the court.

In any view of the matter, sine one of the parties to the dispute is a local lawyer and the litigation, in the past has been fought rather intensely and emotionally, the successive Presiding Officers have found it difficult to contain the parties for an effective adjudication of the case.

This Court also is satisfied that the proceedings of the Maintenance Case No. 130M of 2011 is requested to be transferred to a court of equal and competent jurisdiction in any other district, for fair and impartial adjudication.

A suggestion has come from the Bar that transferring the case to the judgeship of neighbouring



district of Purnea would be convenient for the parties. This Court is also of the view that the transfer of the Maintenance Case No. 130M of 2011 to Purnea Judgeship would serve the purpose and would also not be very difficult for the parties to contest there.

The order dated 24.01.2018 passed by this Court is, therefore, recalled.

The Maintenance Case No. 130M of 2011 is directed to be transferred from the Sessions Division of Araria to Sessions Division of Purnea.

The District and Sessions Judge, Araria is directed to send the records of the Maintenance Case No. 130M of 2011 to the Sessions Division of Purnea. The District and Sessions Judge, Purnea is also directed to have the case placed before the Principal Judge, Family Court, Purnea for disposal.

The Principal Judge, Family Court, Purnea would be required to decide maintenance case and dispose it of expeditiously as it has remained pending for the last eleven years.

The petition stands disposed of with the aforesaid observations.

(Ashutosh Kumar, J)

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