

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.594 of 2017

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Neha Pathak D/o Sri Dinesh Kumar Pathak Resident of
Mohalla- Bahaliya Bigha, P.S. Tekari, Distt- Gaya.

.... Petitioner

Versus

Sanjeev Kumar Pathak Son of Suresh Kumar Pathak Resident
of Mohalla- Beladullah , P.S. L. N. M.U., P.O.- Lalbag, Distt-
Darbhanga.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate
For the Respondent/s : Mr. Baidyanath Thakur, Advocate
Mr. Prabhakar Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4. 28-08-2018

Heard learned counsel for the parties.

This application is seeking transfer of the
Matrimonial Case No. 156/2016 filed under Section 9 of the
Hindu Marriage Act, 1955 by the husband (opposite party)
pending in the court of learned Principal Judge, Family Court,
Darbhanga to the court of learned Principal Judge, Family
Court, Gaya.

The grounds set-forth of the transfer are stated in
paragraph Nos. 6 to 11 of the application. The petitioner is
contesting Section 9 application on the grounds that the
opposite party has subjected her to the act of cruelty and
torture for non-fulfillment of the demand of dowry, snatched
her ornaments and ousted her from the house. The petitioner
also submits that she has no source of livelihood and totally
dependent on the income of her old father to meet her
requirements, whereas the opposite party is a government



teacher and earns approximately a sum of Rs. 40,000/- per month. It is submitted that the petitioner is presently staying at Tekari in the district of Gaya and she has no sufficient means to attend the proceeding of the case at Darbhanga, therefore it would not be possible for her to undertake long distance traveling by road or train from Gaya to Darbhanga. It is also stated that the petitioner tried to settle the matter amicably through panchayati but the opposite party has already solemnized his marriage with another girl before solemnization of marriage with the petitioner and he is not ready to leave his second wife.

On the other hand, learned counsel representing the opposite party submits that he is still ready to accept the petitioner as his wife, he has not solemnized any marriage prior to the marriage with the petitioner and the fact that he is pursuing his application seeking restitution of conjugal right under Section 9 of the Hindu Marriage Act, 1955 is strengthening his argument that he is interested in restitution of conjugal rights with this petitioner. The allegation of cruelty and torture has been denied. It is submitted that the opposite party is earning a sum of Rs. 25000/- per month and not Rs. 40,000/- per month as claimed by the petitioner.

Having heard learned counsel for the parties and upon going through the records, this court finds that so far as the difficulty expressed by the petitioner is concerned, it has



not been denied that the petitioner is presently staying at Tekari in the district of Gaya, she has no source of livelihood and is totally dependent upon the income of her old father to meet her requirements.

In view of the uncontroverted statements of the petitioner, this court is of the opinion that if at all the opposite party is showing confidence in the petitioner and is willing to restore his conjugal life with the petitioner as husband and wife, he would be required to go to the place of his wife where she is residing and pursuing matrimonial matter before the court at Gaya. The Matrimonial Case No. 156/2016 filed under Section 9 of the Hindu Marriage Act, 1955 pending in the court of learned Principal Judge, Family Court, Darbhanga is hereby transferred to the court of learned Principal Judge, Family Court, Gaya. Let the records of the case be transferred within a period of 15 days from the date of receipt/production of a copy of this order.

With the aforesaid observation, this application stands disposed off.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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