

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23799 of 2017

Arising Out of PS.Case No. -598 Year- 2011 Thana -GAYA COMPLAINT CASE
District- GAYA

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Pankaj Sharma, S/o Basisth Sharma, Resident of Village-
Upardaha, Post- Belsara, P.S.- Deo, District- Aurangabad, at
present R/o Mohalla- V- 104, Jai Bhavani Chawl, Sai Baba,
Gokhul Nagar, Akurli Road, P.S. Kandivalli (W), Mumbai-
400041.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Vinita Devi, W/o Pankaj Sharma, D/o Arjun Sharma, R/o
Village- Paraiya Khurd, P.O. + P.S.- Pariya, District- Gaya.
R/o Mohalla- B/104, Jai Bhavani Chawl, Sai Baba, Gokhul
Nagar, Akurli Road, P.S. Kandivalli, Mumbai (at present she
is living at Village-Paraiya).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Kumari Jyoti, Adv.

For the Opposite Party/s : Mr. Sri Nityanand, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

7 21-03-2018 A counter affidavit has been filed on behalf of the
opposite party No. 2 in Court. Let it be taken on record.

The petitioner, who is an accused in Complaint
Case No. 598(C) of 2011 has sought its transfer from the
Court of learned Sub-Divisional Judicial Magistrate, Gaya to



any other competent Court of equivalent jurisdiction, either in Jehanabad or at Patna.

The reason assigned for seeking such transfer is that the opposite party No. 2 and her relatives reside at Gaya and every time that the petitioner goes to Gaya to contest his case, other cases are saddled on him. He also apprehends that in case he goes to Gaya to pursue the cases lodged against him, he shall be physically harmed.

The counter affidavit filed on behalf of the opposite party No. 2 indicates that there are only two cases pending at Gaya district, viz. (i) Complaint Case No. 598(C) of 2011, which is sought to be transferred and (ii) Maintenance Case No. 57 of 2017, which is only a fall-out of the disturbed marital relation between the parties as well as Complaint Case No. 598(C) of 2011.

It has been submitted on behalf of the opposite party No. 2 that the petitioner had earlier filed a divorce case in Mumbai which ended in an *ex-parte* order against her because she could not appear before the Mumbai Court because of her financial constraints.

As opposed to the aforesaid assertion made on behalf of the opposite party No. 2, learned counsel for the petitioner has submitted that apart from the two cases referred to above, there is yet another case lodged by



opposite party No. 2 at Patna.

A perusal of the aforesaid case reflects that the opposite party No. 2, immediately after coming out of the Mediation Centre, went to the Civil Lines Police Station, Gaya and made a complaint that the petitioner had threatened her of dire consequences. The aforesaid case has been lodged under Section 341, 323, 354, 379, 506, 494 and 34 of the Indian Penal Code in the year 2017 only and that also when the opposite party No. 2 was threatened. Thus, it cannot be said that the opposite party No. 2 has been filing cases against the petitioner unnecessarily.

If an offence is committed by any person, a complaint will have to be necessarily made and that cannot be a ground for seeking transfer of the pending case, especially a matrimonial case, from one judgeship to another.

For the reasons aforesaid, this Court is not inclined to accede to the prayer made on behalf of the petitioner.

The petition is, thus, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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