

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1490 of 2016

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Urmila Kumari, W/o Shiv Kumar @ Raj Singh, Daughter of Sri. Gangeshwar Sharma, presently residing at Mohalla-C-6 Police Colony, Anishabad, Police Station- Gardanibagh in the District of Patna.

.... Petitioner/s

Versus

Shiv Kumar @ Raj Singh, son of Sri. Ram Bilash Singh, R/o village-Habibpura, Police Station-Sohsarai in the District of Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navin Sharma. Adv.

For the Respondent/s : Mr. Arun Kr. Sufal, AC to AAG 12

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 13-08-2018 Heard learned counsel for the petitioner and learned counsel representing the State. No one appears on behalf of the O.P.No.1.

This application has been preferred for transfer of Matrimonial Case No. 23 of 2016 filed by the husband of the petitioner in the Court of Principal Judge, Family Court, Nalanda at Biharsharif, to the Court of learned Principal Judge, Family Court, Patna, where the petitioner is presently residing.

The grounds on which the petitioner is seeking transfer of the case have been set out in the application. Learned counsel for the petitioner submits that the marriage between the petitioner and O.P. No.1 was solemnized in the year 1999 and out of the said wedlock one male child was born. The O.P. No.1 was at the



relevant time studying in the State of Karnataka but, thereafter, he left the study, came back to his native place in the District of Nalanda and started demanding dowry and then he indulged in brutally assaulting the petitioner for which the petitioner has lodged a criminal case vide Gardanibagh P.S.Case No.212 of 2011 for the offences punishable under Sections 323, 341, 498(A)/34 of the Indian Penal Code. According to the petitioner, O.P.No.1 has lodged one criminal case being Sohsarai P.S.Case No.81 of 2011 under Section 379 of the Indian Penal Code wherein it is alleged that the petitioner has fled away from her husband's place. He has impleaded the petitioner, her 71 year old father and her brother however, in course of investigation police found that the case was not true and has, accordingly, submitted a final form but the Opposite Party No.1 is contesting the same by filing a protest petition. It is further stated that Opposite Party No.1 has solemnized second marriage details of which are mentioned in Paragraph No.23 of the application.

By filing a supplementary affidavit, now the petitioner has brought on record the order passed by the learned Additional Principal Judge, Family Court, Patna, in Maintenance Case No.70 (M) of 2012 in which the learned Court has been pleased to order payment of Rs.5,000/- for the petitioner and Rs.1,000/- for the son



per month as maintenance. This order was passed on 06.08.2015 but an affidavit has been sworn to say that the O.P.No.1 has not been complying with the order granting maintenance to the petitioner. It is further stated that the petitioner has no other source of income and it would not be possible for her that when she is not even getting the maintenance, she can fight out the case at Biharsharif in the District of Nalanda.

Learned counsel for the State is present however, in the nature of the case in which the parties are litigating, learned counsel for the State has not much role to play.

In the given facts and circumstances of the case, in view of the pleadings available on the record, this Court is satisfied that it is fit case for transfer from the Court of learned Principal Judge, Family Court, Nalanda at Biharsharif to the Court of learned Principal Judge, Family Court at Patna. The petitioner is not having any source of income and the fact that she is not even paid the maintenance which was awarded to her in the year 2015 and that the husband of the petitioner had earlier lodged the criminal case against her and other family members, beside that she has a child to whom she has got certain responsibilities and obligation to take care of, in the opinion of the Court are good grounds to order for transfer. It is, therefore, ordered that the case bearing No.



Matrimonial Case No.23 of 2016 pending in the Court of Principal Judge, Family Court, Nalanda at Biharsharif will stand transferred to the Court of learned Principal Judge, Family Court at Patna. Let the learned Principal Judge, Family Court, Nalanda at Biharsharif transfer the records to the Court of learned Principal Judge, Family Court, Patna, within a period of 15 days from the date of receipt/production of a copy of this order.

The application is allowed.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha/Ved

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