

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1676 of 2018

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Mrs. Jyotsna Krishnan, wife of Mr. Niraj Niyanta, D/o Shiv Shanker Prasad Yadav, presently resident of Lalita Residency, Flat No.608, Rupaspur, East of Canal, South of Bailey Road, Patna.

.... Petitioner/s

Versus

Mr. Niraj Niyanta, son of Viveka Nand Yadav, resident of Rangkothi, Golester Road, Jamalpur, Near Church, Munger, Pin Code-811214, presently R/o House No.30 1st Stage Kunempunagar, Jelahatti East, Bangalore-560014, Karnataka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha

For the Respondent/s : Mr. Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 04-10-2018

Heard learned counsel for the parties.

This application has been preferred seeking transfer of Matrimonial Case No.177 of 2017 pending in the court of learned Principal Judge, Family Court, Munger to the court of learned Principal Judge, Family Court, Patna.

It appears from the narration of the facts in the application that the present case has arisen out of a divorce proceeding brought by the opposite party no.2 in the court of learned Principal Judge, Family Court, Munger giving rise to present Matrimonial Case No.177 of 2017. In the said case, the petitioner being the opposite party has already appeared, filed her written statement and participated in the proceeding. It is an



admitted position that the case is presently fixed for evidence of the plaintiff, the plaintiff has already been examined and cross-examined and has been discharged. Two or three plaintiff's witnesses are required to be examined for the present before the evidence of the opposite party in the said case begins. The ground for transfer of the matrimonial case at this stage is that the petitioner has been serving in the Bank of India as Credit Officer in the bank at Khagaul Branch, Patna. Another ground is that when the present petitioner had gone to attend the case at Munger on 22.01.2018, she along with her father were surrounded by the petitioner who gave threats of many kinds and abused her and asked her to give consent for divorce before the court or else they will get her lifted from the world. In this connection, father of the petitioner has filed an information petition on 31.01.2018 before the learned Chief Judicial Magistrate, Munger, a copy of which has been enclosed as Annexure-P/3. On these two grounds the proceedings are sought to be transferred.

On the other hand, learned counsel representing the opposite party submits that the opposite party is working at Bengaluru in the State of Karnataka. The petitioner is well placed in life, she has got resources and manpower to attend the court at Munger and in fact she has attended the court all through this



period and even the evidence of the opposite party has been concluded. It is submitted that now hardly 2 to 3 witnesses on behalf of the opposite party (husband) may be required to be examined which may be finished within a month if the dates are so provided by the learned Family Court. Learned counsel further submits that the statement made in the application that the petitioner and her father were threatened on 22.01.2018 seems to be highly improbable inasmuch as any reasonable person who got threatened on the date fixed in the matter will definitely report the same to the court concerned on the same day and will not wait for a week or so to file an information petition in the court of learned Chief Judicial Magistrate. It is submitted that the case is at the fag end of the trial and at this stage there is no need to transfer the proceedings on the grounds stated on behalf of the petitioner.

Having heard learned counsel for the parties, this Court is of the opinion that where both the parties are residing outside Munger and the evidence in the case has already begun, the plaintiff has been examined and cross-examined and now only the case is to be concluded which may be done within few months, the grounds stated by the petitioner to transfer the proceeding taking care of her convenience alone would not be just and proper. The petitioner is well placed in life and has got resources both in



form of finance as well as manpower and thus by attending the case on 2-3 days only she cannot say that it will be a matter of inconvenience for her. So far as the threat perception based on Annexure-P/3 is concerned, this Court would not take notice of the same in the given facts and circumstances submitted by learned counsel for the opposite party. The petitioner may request the Family Court at Munger to fix the date on which she is required to appear personally as per her convenience which may be taken care of by the Family Court.

The application is disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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