

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 1040 of 2019

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Pallavi Singh, Female aged about 26 years, Wife of Shankar Suman, Resident of Village- Lalpur Siropatti, P.S.- Singheswar, District- Madhepura at present D/o Ghanshyam Singh, Resident of Village- Sari, P.S. Warisnagar (Mathurpur O.P.), District- Samastipur.

... .. Petitioner/s

Versus

Shankar Suman, Male aged about 35 Years, Son of Chandra Mohan Singh, Resident of Village Lalpur Siropatti, P.S.- Singheswar, District- Madhepura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Advocate

For the Opposite Party/s : Mr. Shailendra Kumar Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 04-07-2019

Heard learned counsel for the petitioner and learned counsel for the opposite party.

2. Learned counsel for the petitioner is permitted to make necessary correction in paragraph no. 7 of the application with regard to his correct description of the police. Let the same be done during the course of the day.

3. The petitioner has moved the Court under Section 24 of the Code of Civil Procedure for seeking transfer of Divorce Case No. 2 of 2018 filed by her husband-opposite party no. 2 in the Court of Principal Judge, Family Court, Madhepura to the Court of Principal Judge, Family Court, Samastipur.



4. Learned counsel for the petitioner submitted that the marriage between the petitioner and the opposite party was held on 18.04.2012 and the petitioner went to her matrimonial home and was living peacefully for about two years when the opposite party and his relatives started torturing her for divorce. It was submitted that the petitioner was forced to file Singheswar PS Case No. 196 of 2016 on 21.09.2016 and in the said case, there was a compromise with the opposite party to look after the petitioner with full dignity and honour. It was submitted that when the petitioner went to her matrimonial home in terms of the compromise, she was again tortured both mentally and physically and thereafter ousted from her house after keeping back all the belongings and two vehicles given to her by her parents at the time of marriage, she filed Warisnagar PS Case No. 09 of 2018 on 24.01.2018. Learned counsel submitted that in the said case, police has submitted charge sheet on 07.06.2018 and cognizance has also been taken by the Court on 19.06.2018. It was submitted that prior to filing of the criminal case, the petitioner has filed Maintenance Case No. 238 of 2017 before the Principal Judge, Family Court, Samastipur in which opposite party was noticed and he also appeared in the proceeding. It was submitted that as a counter blast to the said maintenance case, the present divorce



case has been filed on 08.01.2018. Learned counsel submitted that the *mala fide* conduct of the opposite party and his family members would be clear from the fact that two four wheeler vehicles were bought for the petitioner by her parents and which were registered in the name of the petitioner and his father but still the same are being retained by the opposite party and his family. It was submitted that for this, she has also filed Complaint Case No. 780 of 2018 before the Chief Judicial Magistrate, Samastipur on 02.06.2018 in which cognizance has been taken on 17.08.2018. Learned counsel submitted that the opposite party cunningly got a compromise in the first criminal case filed by the petitioner undertaking that the petitioner would be kept as wife with full dignity and honour but the same was belied. It was further submitted that the petitioner is without any support and living in the district of Samastipur and, thus, it would be quite difficult, both physically and financially, for her to contest the matter at Madhepura and further in the cases filed by the petitioner, the opposite party has appeared and is making *pairvi* at Samastipur and, thus, the present case being transferred to Samastipur would not cause any extra load on him. Learned counsel submitted that it is the opposite party has sufficient financial capacity to easily contest the cases at Samastipur.



5. Learned counsel for the opposite party, who has filed counter affidavit submitted that the petitioner has been harassing him and has filed four cases one after the other. It was further submitted that the vehicles in question were bought by the opposite party, though in the name of the father of the petitioner and in the name of the petitioner, but the money was that of the opposite party and that is why the vehicles are still being retained. It was further submitted that the mother of the opposite party is suffering from cancer and he is looking after her and has also to take her to Varanasi for treatment every month.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for transfer has been made out.

7. From the conduct of the opposite party, it is clear that he is not playing fair, either with the petitioner or the Court. In the first case, on the basis of compromise from his part with regard to keeping the petitioner as wife with full dignity and honour, the case having been disposed off on the basis of such compromise and then when the petitioner went to live in the matrimonial home, her being turned out is clearly playing smart with the Court. Matters become worse for the opposite party due to the fact that it has been admitted before the Court by learned counsel appearing



on behalf that he is possessing and using the two vehicles which are registered in the name of the petitioner and her father. It is patently absurd that the opposite party would have used his money to buy two vehicles and got the vehicles registered in the name of the petitioner and her father. This is an absolute lie and cannot be believed. Moreover, when three cases are pending against the opposite party at Samastipur and the petitioner being a lady and also not having any independent source of income, clearly having to pursue the matter at Madhepura would be any arduous burden on her.

8. Accordingly, the application is allowed. The Divorce Case No. 02 of 2018 filed by the opposite party and pending before the Court of Principal Judge, Family Court, Madhepura stands transferred to the Court of Principal Judge, Family Court, Samastipur. The records shall be transmitted by the Court at Madhepura to the Court of Samastipur latest within two weeks from today. Upon the same being received by the Court at Samastipur, a new number shall be instituted and the case shall proceed in accordance with law. For the purpose of facilitating matters, let the petitioner and the opposite party appear before the Principal Judge, Family Court, Samastipur on 30th July, 2019,



when the Court shall fix the next date in the case and the matter shall thereafter proceed.

9. Registry shall communicate the order to the Court below latest by tomorrow.

(Ahsanuddin Amanullah, J.)

P. Kumar

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