

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.34100 of 2019**

Arising Out of PS. Case No.-2104 Year-2016 Thana- KATIHAR COMPLAINT CASE  
District- Katihar

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1. RAKESH MUKUL Son of Shri Radheshwar Prasad Verma Resident of Village - Sherpur, Kayastha Tola, P.S.- Sadar, District- Muzaffarpur
  2. Rekha Verma Wife of Late Sudhesh Kumar Resident of Mohalla- Ramdayalu Nagar, Muzaffarpur, Opposite Muktinath Temple, P.S.- Kazi Mohammadpur, District- Muzaffarpur, At present residing in the house of Shri Rakesh Mukul at Village- Sherpur, Kayastha Tola, P.S.- Sadar, District- Muzaffarpur

... .. Petitioners

Versus

1. The State of Bihar
2. Anil Kumar Sinha Son of Late Sukhdev Prasad Sinha Resident of Mohalla - Shivajee Nagar, Laliyahi, Katihar, Ward No.-10, P.S.- Sahayak (Katihar), District- Katihar (Bihar)

... .. Opposite Parties

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**Appearance :**

For the Petitioner/s : Mr.Pandey Bipul Kumar  
For the Opposite Party/s : Mr.Umanath Mishra

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

4      02-09-2019                      This application has been filed for transfer of Complaint Case No. 2104 of 2016, filed by opposite party No.2, from the court of ACJM-VI, Katihar to any court of competent jurisdiction of the civil court, Muzaffarpur.

Ground for transfer is that there are several litigations pending between the parties, including the complaint filed by daughter of petitioner No.2 against son of opposite party No.2 under Section 498A and other sections of the Indian Penal Code. Thereafter a petition under Section 9 of the Hindu Marriage Act



has been filed by son of opposite party No.2 against daughter of petitioner No.2 and further a maintenance case has been filed by daughter of petitioner No.2 against son of opposite party No.2 and those cases are now pending only for transfer to the civil court, Muzaffarpur. The present complaint case has been filed by opposite party No.2 against the petitioners, including the husband of petitioner No.2 on the allegation of commission of theft in order to pressurise the petitioners and get them appeared at the Katihar court. Further submission is that husband of petitioner No.2 was suffering from cancer but in spite of that twice his bail bond was cancelled and he has to appear in such a situation before Katihar court and they are also apprehending danger at Katihar court as the present case has been filed in retaliation to earlier complaint case filed by daughter of opposite party No.2 and informatory petition has also been filed.

On the other hand, learned counsel for the petitioners has submitted that all other cases are now pending within the jurisdiction of civil court, Muzaffarpur and as well as the fact that the petitioners are apprehending danger at Katihar, for that they have also filed informatory petition also and earlier twice bail bond of husband of petitioner No.2 was cancelled at the instance of opposite party No.2 and as such they apprehend



danger at Katihar and for that the present application has been filed.

Learned counsel for opposite party No.2 has submitted that in this case three witnesses have been examined on behalf of opposite party No.2 before charge and thereafter discharge petition has also been filed by the petitioners' side and husband of petitioner No.2 has already filed a petition in the matter which is pending for framing of charge. Moreover opposite party No.2 is also suffering from heart ailment, as such he will be facing great difficulties if the case has been transferred to the Muzaffarpur court. It is also submitted that Section 407 Cr.P.C. also provides that a transfer can be made when there is apprehension that a fair and impartial inquiry or trial cannot possible in any court subordinate to the High Court or will tend to the general convenience of the parties or witnesses or is expedient for the ends of justice. However, in the present case witnesses are of Katihar and opposite party No.2-complainant is suffering from heart ailment, in such a situation the transfer of the case will cause inconvenience to opposite party No.2.

Considering the fact as discussed above and also the fact that case is pending for framing of charge and also



considering the age of opposite party No.2, I am not inclined to  
allow this application for transfer at this stage.

Accordingly, this application is disposed of.

**(Vinod Kumar Sinha, J)**

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