

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.74836 of 2018

Arising Out of PS. Case No.- Year- Thana- District- Nawada

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Rakesh Raj @ Rakesh Kumar Son of Bipin Bihari Lal, Resident of Mohalla-
Manpur, P.S.- Buniyadganj, District- Gaya.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Babita Devi, Wife of Rakesh Raj @ Rakesh Kumar, Daughter of Ram Bilash Turki, Resident of Mohalla- Mapi Road, Warsaliganj, P.S.- Warsaliganj, District- Nawada.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Chandra Sen Prasad Singh, Adv.
For the State	:	Mr.Sri Nawal Kishore Prasad, APP
For the Opposite Party	:	Mr. Birendra Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 08-02-2019 This application has been filed for transfer of Maintenance Case No. 103/2012 from the court of Principal Judge, Family Court, Nawada to any other court of competent jurisdiction of the adjacent sessions division.

Ground for transfer of Maintenance Case No. 103/2012 is that the learned court below without giving opportunity to the petitioner to cross- examine the applicant (opposite party no. 2), has discharged her, which will appear from Annexure -4 and without giving an opportunity to the petitioner, the learned Principal Judge, Family Court, Nawada has fixed the case for judgment.

Heard learned counsel for the State as well as learned



counsel appearing on behalf of the opposite party no. 2. Learned counsel for opposite party no. 2 has submitted that now the case has been posted for judgment and only with a view to linger the matter, this present application has been filed.

Having heard both sides, from perusal of the record, it appears that the ground taken by the petitioner is that he has not been given the opportunity to cross-examine opposite party no. 2. However, it appears from annexure -2 that learned Principal Judge, Family Court, Nawada has given a finding that the opposite party no. 2 is not competent to answer the questions and under such circumstances, he discharged the opposite party no. 2 during the evidence. Further, it appears that the case is posted for judgment and argument of learned counsel for the petitioner is that without giving an opportunity to the petitioner to cross- examine the opposite party no. 2, has posted the case for judgment.

From perusal of the order dated 31.10.2018, it appears that he has heard the argument of the applicant but opposite party no. 2 has not argued and as nobody appeared on behalf of the appellant, as such, the case was posted on 31.10.2018 and opposite party no. 2 (herein petitioner) was given liberty to file written argument. In such view of the matter, though I find no



merit in this transfer application, however, considering the above fact, this application is disposed of with direction to the learned Principal Judge, Family Court, Nawada before passing the judgment, he will grant an opportunity to the petitioner of being heard within a period of one month from the date of receipt/production of a copy of this order.

It is made clear that if the petitioner does not make any argument or file any written argument, he may proceed with the judgment.

Accordingly, this application is disposed of.

(Vinod Kumar Sinha, J)

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