

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3110 of 2017

Nutan Kumari W/o Raushan Kumar, D/o Late Sidheshwar Prasad resident of Village Bahadurpur, Post Office - Monkaththa, P.S. - Barhaia, District – Lakhisarai.

... .. Petitioner

Versus

Raushan Kumar S/o Late Shatrughan Sharma resident of Village - Kurtha, P.S. Hilsa, District - Nalanda, presently residing at Mohalla Indira Nagar, Road No. 05, P.S. Kankarbagh, Patrakar Nagar, District and Town – Patna.

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Pankaj Kumar Sinha, Mr. Rabi Bhushan, Advocates
For the Opposite Party	:	Mr. Bijay Kumar Pandey, Mr. Mukesh Kumar, Advocates

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 15-04-2019

The present petition has been filed for transfer of Matrimonial Case No. 392 of 2013 from the Court of learned Principal Judge, Family Court, Patna to the Court of learned Principal Judge, Family Court, Lakhisarai.

2. Learned counsel for the petitioner submits that earlier the petitioner had filed Complaint Case No. 131 C of 2011 which was converted into Barahiya P.S. Case No. 40 of 2011 registered under Sections 498A and 406 of the Indian Penal Code, Section 3/4 of the Dowry Prohibition Act and Section 31 of the Domestic Violence Act. Thereafter on 15.05.2013 Matrimonial Case No. 392 of 2013 has been filed in the court of learned Principal Judge, Family Court, Patna by the opposite party seeking annulment of marriage in terms of Section 11 and 12 of the Hindu Marriage Act.



3. It is submitted that the petitioner is a lady and thus does not have any source of income and and is not keeping good health, in view of which it would be very difficult for the petitioner to defend the Matrimonial Case at Patna. Moreover, the criminal proceeding in the aforesaid Barahiya P.S. Case No. 40 of 2011 is already pending in the court at Lakhisarai which the opposite party is required to attend.

4. Learned counsel for the opposite party appears and opposes the petition for transfer of the said Matrimonial Case No. 392 of 2013 to Lakhisarai, submitting that the very validity of the marriage in question has been challenged in the said Matrimonial case seeking annulment of the marriage.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the prayer of the petitioner. A specific plea has been taken that the petitioner does not have any sources of income and does not keep good health. Besides, the criminal case pending at Lakhisarai would be required to be attended by the opposite party.

6. No counter affidavit has been filed on behalf of the opposite party denying the aforesaid averments nor any difficulty has been expressed by the opposite party if the matrimonial case is transferred to the court at Lakhisarai as sought.

7. In the circumstances, this Court is of the view that the balance of convenience therefore lies in favour of the petitioner. Accordingly, this Court directs transfer of Matrimonial Case No. 392 of



2013 filed at the instance of the opposite party from the Court of learned Principal Judge, Family Court, Patna to the Court of learned Principal Judge, Family Court, Lakhisarai for its disposal.

8. The petition stands disposed of.

BT/-

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.04.2019
Transmission Date	N.A.

