

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1935 of 2018

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Pinki Jha @ Pinki Kumari D/o Tejnarayan Jha, resident of Village+ P.O.-
Nagar, P.S.- Kulhai, District- Madhubani, at present residing at Dami Tola,
Prema Ashram, Near Hardayal Takies, P.S.+ District- Katihar.

... .. Petitioner/s

Versus

Deepak Kumar Jha @ Gulshan Son of Sri Bachnu Jha, resident of Village+
P.O.- Parsouni, P.S.- Bisfi, District- Madhubani.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 05-08-2019

Learned counsel for the petitioner and learned counsel
for the opposite party have assisted the Court.

2. The matter was taken up and heard on 02.08.2019 and
the Court had recorded the following order:

*“Learned counsel for the petitioner and
learned counsel for the opposite party have assisted the
Court.*

*2. The petitioner and the opposite party are
also present in Court.*

*3. Without going into the merits, on specific
query of the Court, the opposite party submitted that he
is ready to take the petitioner with him and keep her
with full dignity, honour and security without any
preconditions.*

*4. As jointly prayed, the matter be listed on 5th
August, 2019 under the heading ‘For Orders’ when the
petitioner and the opposite party shall be present in
Court to decide on the modalities on which the parties
can resume their conjugal life.”*



3. On that day, the Court had adjourned the matter for today as the weekend was intervening and had directed it to be listed today for working out of modalities on which the parties would resume to live together. The petitioner and the opposite party were also directed to remain present in Court.

4. Today, when the matter was taken up, Mr. Shailendra Kumar Jha, learned counsel for the opposite party no. 2 filed an affidavit personally affirmed by him by way of an informatory petition detailing the conduct of the petitioner and her father on 02.08.2019. He submitted that as soon as the Court had risen for the launch interval and when he came out of the Court room, the father of the petitioner caught his coat collar and the petitioner slapped him on the left cheek. He has also stated this in the affidavit filed by him today.

5. Mr. Shailendra Kumar Jha, learned counsel submitted that many learned counsel as well as the policemen in the corridor witnessed the scene.

6. Mr. Sharda Nand Mishra, learned counsel for the petitioner fairly submitted that he also saw the petitioner slapping Mr. Shailendra Kumar Jha, learned counsel.

7. The petitioner and her father started to offer some vague excuses and the petitioner even stated that Mr. Shailendra



Kumar Jha, learned counsel was abusing her. This has not been corroborated by any of learned counsel. In fact, Mr. Rajesh Kumar Verma, Mr. Gopal Jha, Mr. Vivek Kumar, Mr. Manoj Kumar Jha and Mr. Jitendra Kumar Jha, learned counsel, who were present in Court, took a categorical stand that they were witness to both the father and the petitioner holding the collar of Mr. Shailendra Kumar Jha, learned counsel and the petitioner slapping him on the left cheek.

8. In view of the aforesaid, *prima facie*, and in the tentative view of the Court, the contention of Mr. Shailendra Kumar Jha, learned counsel that the father of the petitioner caught his collar and the petitioner slapping him appears to be true. It is also not in dispute that the place of occurrence was just outside the Court room in the corridor of the Court inside the building of the High Court.

9. Thus, the Court finds that criminal contempt as defined under Section 2(c) of the Contempt of Courts Act, 1971 has been committed by the petitioner and her father by physically assaulting learned counsel appearing for the opposite party, that too, in the Court premises just outside the Court, which clearly scandalizes and lowers the authority of the Court and interferes with and obstructs in the administration of justice, as Mr.



Shailendra Kumar Jha, learned counsel, who was assaulted, was representing the other side, who was contesting the case filed by the petitioner.

10. The defence of the petitioner that she was provoked as learned counsel had been abusing her cannot be a ground for any overt act, muchless of slapping learned counsel in the Court premises. It can also not be a justification or defence in any view of the matter. Further, till date and even on 02.08.2019, when the Court had patiently heard the petitioner she had not uttered even a word with regard to any misbehavior or abuse by Mr. Shailendra Kumar Jha, learned counsel. This also is absolutely unbelievable as learned counsel do not get attached personally with any brief and there is no occasion for any counsel to get into direct dialogue with the party of the other side, who is duly represented by her own counsel. Even learned counsel for the petitioner has not supported such contention of hers.

11. At this stage, the Court had two options: either to proceed in the matter itself or to institute an Original Criminal Miscellaneous (Contempt) Case against the petitioner and her father to be heard by a Division Bench.

12. Looking at the gravity of the incident, where a learned counsel has been physically assaulted by the petitioner and



her father as also the fact that the father of the petitioner has stated that he is a practicing lawyer in the Civil Court at Katihar, the Court deems it appropriate to adopt the second option, i.e., get instituted an Original Criminal Miscellaneous (Contempt) Case to be heard by a Division Bench of this Court so that the dignity of the Court is not allowed to be compromised by any person.

13. Accordingly, the Registry is directed to institute Original Criminal Miscellaneous (Contempt) Case against Pinki Jha @ Pinki Kumari, daughter of Tejnarayan Jha, resident of village and post Nagar, PS- Kulhai, District- Madhubani at present residing at Domi Tola, Prema Ashram, Near Hardayal Talkies, PS Bisfi, District Katihar and Tejnarayan Jha, son of late Umakant Jha, resident of village and post Nagar, PS- Kulhai, District- Madhubani at present residing at Domi Tola, Prema Ashram, Near Hardayal Talkies, PS Bisfi, District Katihar.

14. In view thereof, the Registry shall institute an Original Criminal Miscellaneous (Contempt) Case against the aforesaid two persons and shall place the matter before Hon'ble the Chief Justice for being listed before an appropriate Division Bench for hearing.

15. Coming to the merits of the matter, initially the father of the petitioner wanted to address the Court but he



submitted that learned counsel appearing for the petitioner shall assist the Court. Accordingly, Mr. Sharda Nand Mishra, learned counsel has been heard.

16. The petitioner has moved the Court under Section 24 of the Code of Civil Procedure, 1908 for transfer of Matrimonial Suit No.86 of 2018 from the Court of Principal Judge, Family Court, Madhubani to that of the Principal Judge, Family Court, Katihar.

17. Learned counsel for the petitioner submitted that she is living with her father at Katihar and going to Madhubani to contest, because of the distance would be harassment for her and, thus, the Court may transfer the Matrimonial Suit No. 89 of 2018 from Madhubani to Katihar. It was submitted that in Madhubani the petitioner has no support to contest the case. It was submitted that the petitioner has filed Complaint Case No. 29 of 2016, which is pending before the SDJM, Katihar and, thus, the present Matrimonial Case be also transferred to Katihar.

18. Learned counsel for the opposite party submitted that he will not be getting a fair trial at Katihar for various reasons. It was submitted that in the complaint case, the petitioner has filed Criminal Miscellaneous No. 46067 of 2016 in which proceedings in the complaint case has been stayed. It was submitted that the



petitioner and her father are playing games with the Court inasmuch as she has also filed a complaint case in Katihar where proceedings were going on *ex parte* without any information to the opposite party and when he came to know of it and went to appear in the matter there were persons who heckled him and tried to prevent him from peacefully attending the Court proceeding. It was submitted that the father of the petitioner being a practicing advocate in the Lower Court at Katihar has been exerting undue pressure and there is also uncalled for interference due to which the opposite party is unable to engage a lawyer of his choice. It was further submitted that the incident which occurred on 02.08.2019 would clearly demonstrate the genuineness of the threat to the person of the opposite party inasmuch as when the petitioner and her father have the courage to physically assault a counsel of the High Court in the premises itself in the presence of the security guards and learned counsel, nothing further remains to be presumed or assumed with regard to the potential of the petitioner and her father of causing serious harm to the opposite party and his family members as and when they go to Katihar to contest the matter. It was further submitted that the father of the opposite party has serious kidney ailment due to which twice a week he has to undergo dialysis. Learned counsel submitted that



even otherwise the ancestral home of the petitioner is at village Nagar which is only about 6-7 kilometres from Madhubani town whereas the house of the opposite party is more than 20 kilometres.

19. Learned counsel, at this stage, also submitted to the Court that the matter be transferred either to Saharsa, Darbhanga, Purnea or Patna so that the opposite party can freely contest the matter without being concerned of the safety and security of himself and his family members.

20. At this juncture, the Court called upon learned counsel for the petitioner for a response whether the petitioner would be amenable to transfer the case to any of the aforesaid districts. He said that she is ready that the case be transferred to Purnea.

21. Having regard to the aforesaid, the Court finds that though no justifiable reason has been brought before the Court for transfer of the case from Madhubani to Katihar, moreso, when the Court finds substance in the contention of learned counsel for the opposite party that there are serious issues with regard to the safety and security of the opposite party no. 2, if he contests the case at Katihar and also he may be prevented from engaging a counsel of his choice, but without advertng to such grounds, since the



petitioner and her father have agreed to transfer of the case to Purnea, which is also acceptable to the opposite party, the Court deems it appropriate to order for such transfer.

22. In view thereof, the application stands disposed off in the following terms:

(A) Matrimonial Suit No. 89 of 2018 pending before the Court of Principal Judge, Family Court Madhubani stands transferred to the Court of Principal Judge, Family Court, Purnea.

(B) The Principal Judge, Family Court, Madhubani shall transfer the records of the case to the Principal Judge, Family Court, Purnea within two weeks from the date of production of a copy of this order before him.

(C). Upon receipt of the records, the Principal Judge, Family Court, Purnea shall register it giving a fresh number to the case. Thereafter, the matter shall proceed, in accordance with law.

(Ahsanuddin Amanullah, J)

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