

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19518 of 2018**

**In
Miscellaneous Jurisdiction Case No.1259 of 2017**

Arising Out of PS. Case No.-216 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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Dayanand Prasad, Son of Late Shukar Prasad
Basanti Devi, Wife of Dayanand Prasad
Chandan Kumar, Son of Dayanand Prasad.
All residents of Village- Navinagar, P.S. - Deep Nagar, District – Nalanda.
... .. Petitioners

Versus

State Of Bihar
Pinki Devi, Daughter of Ramsagar Singh, Resident of Vilalge – Misi, Police
Station- Bakhtiyarpur, District – Patna, at present resident of village –
Navinagar, P.S. - Deepnagar, District – Nalanda.
... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Sanjay Prasad
For the Opposite Party/s : Mr.Dr. Indivar Kumari

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

10 18-06-2019 This application has been filed for transfer of

Complaint Case No. 216(C) /15, under Section 498A of the Indian

Penal Code and Section 3/ 4 of the Dowry Prohibition Act filed by

opposite party no. 2, from the court of learned Sub Divisional

Judicial Magistrate, Barh to the any competent court of competent

jurisdiction under the Sessions division of Nalanda at Biharsharif.

Petitioners happen to be father-in-law, mother-in-law
and husband of opposite party no. 2.

The petitioners have sought transfer of the aforesaid
case on the ground that petitioner no. 1 is aged about 75 years and
petitioner no. 2 is aged about 70 years and both of them are
suffering from several diseases, whereas, opposite party no. 2 is



also at present residing in the house of petitioners at Biharsharif, Nalanda, which has been stated by learned counsel for the petitioners on oath in para 10 of the petition. Further submission is that several other cases filed by the opposite party no. 2 being Dip Nagar P.S. Case No. 277/16 under Section 498A of the Indian Penal Code, Dip Nagar P.S. Case No. 104/18 under Section 498A of the Indian Penal Code are pending in the court of learned Sub Divisional Judicial Magistrate, Biharsharif at Nalanda and apart from that opposite party no. 2 has filed a case under Section 125 Cr.P.C. for her maintenance being Maintenance Case No. 29M/2019 before Family Court, Nalanda, Biharsharif, which is still pending and opposite party no. 2 has also filed Miscellaneous Case No. 13/17 for setting aside the exparte decree of divorce allowed in favour of the petitioner no. 3 in Divorce Case No. 72/16 and the same is also pending before the learned Family Court, Biharsharif. As such, learned counsel for the petitioners prayed for transfer of the Complaint Case No. 216(C) /15.

In this case opposite party no. 2 has appeared by filing Vakalatnama, however, in spite of direction to file counter affidavit to controvert the facts stated in the petition for transfer as well as supplementary affidavit, no counter affidavit has been filed by opposite party no. 2 and today also none has appeared on behalf of opposite party no. 2.



Having heard learned counsel for the petitioners and the State and from perusal of the record, it appears that the present case has been filed by the opposite party no. 2 under Section 498A of the Indian Penal Code, transfer to which, has been sought for on the ground that several other cases filed by opposite party no. 2 are pending in the court at Biharsharif, Nalanda and petitioner nos. 1 and 2 are old persons and they are unable to attend the court at Barh regularly and in support of his contention, he has also referred Annexure -2 of the petition, which is the medical report of petitioner no. 1, which shows that he is suffering from paralysis and heart disease. Further the petitioners have also stated on oath that opposite party no. 2 is presently residing in the house of petitioners at Biharsharif, Nalanda. Considering the same, it appears that balance of convenience tilts in favour of the petitioners. In such view of the matter, it appears that there will be no difficulty to the opposite party no. 2 if the Complaint Case No. 216(C) /15 is transferred from the learned SDJM, Barh to the Sessions Division of Nalanda.

Accordingly, the Complaint Case No. 216(C) /15 is transferred from the court of learned Sub Divisional Judicial Magistrate, Barh, Patna to the Sessions Division of Nalanda at Biharsharif. Learned Sub Divisional Judicial Magistrate, Barh, Patna is directed to send the records of Complaint Case No.



216(C) /15 to the District & Sessions Judge, Nalanda at Bihar Sharif and the Court, which would be assigned the case is directed to proceed and dispose of the case as expeditiously as possible, preferably within a period of one year.

Needless to say, both the parties shall cooperate in expeditious disposal of the case.

(Vinod Kumar Sinha, J)

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