

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49988 of 2018

Arising Out of PS. Case No.-15 Year-2016 Thana- JALE District- Darbhanga

Nikhath Perween W/o Abdul Kalam and D/o Md. Sami Ahmad, R/o Vill.- Muraitha, P.S.- Jalley, District- Darbhanga Presently R/o Mohalla- Gayas Nagar, Nohsa, P.S.- Phulwari Sharif, District- Darbhanga, Presently residing at Mohalla- Gaya Nagar, P.S.- Phulwari Sharif, District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar
2. Abdul Kalam S/o Md. Noor Hasan,
3. Jainum Nesa, Wife of Md. Noor Hasan,
Both residents of village – Muraitha, P.S. Jalley, District – Darbhanga.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.Md. Anis Akhtar
For the Opposite Party/s : Mr.Sri Bharat Bhushan

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 30-04-2019 By way of present application, the petitioner seeks transfer of Criminal Case bearing Tr. No. 684/2017 (C.R.I. 338/2016) arising out of Jalley P.S. Case No. 15/2016 from the learned Additional Chief Judicial Magistrate -I, Darbhanga to any court competent of competent jurisdiction at Patna.

Ground for transfer is that the petitioner is a lady and she has been deserted by her husband and she is residing with her father and mother at Patna as she feels difficulty in attending the Court at Darbhanga on each date for hearing and further ground is that the petitioner has also filed a maintenance case in, Family Court, Patna and opposite party no. 2 is attending the proceeding of Family Court in Patna.



It appears that earlier the notice was issued to opposite party nos. 2 and 3, however, in spite of valid service of notice neither any one appeared nor any Vakalatnama has been filed in their behalf and vide order dated 08.02.2019, the case was adjourned on the ground that none appeared on behalf of opposite party nos. 2 and 3. As such, this court proceeds with the materials available on record.

So far submission of learned counsel for the petitioner that petitioner is feeling difficulty in attending the court in Darbhanga is concerned, it appears that it is a police case and petitioner is the informant and the witness in the said case and she is required to be present on the date of deposition and as such the ground taken by the petitioner that she feels difficulty in attending the court at Darbhanga, does not appear to be plausible.

As such, I find no merit in this application and the same is accordingly dismissed.

However, it is open to the petitioner that she may file a petition before the learned Trial Court for grant of litigation cost for the dates, she attends the court at Darbhanga and if any, such petition is filed the Trial Court shall consider the same and pass an appropriate order.

(Vinod Kumar Sinha, J)

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