

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2975 of 2017

=====

Bhanu Priya Singh @ Rinki D/o Jaymant Singh, wife of Shankar Kumar @
Shankar Kumar Singh, resident at Village Pattori, P.S. Singeswar, District
Madhepura

... .. Petitioner/s

Versus

Shankar Kumar @ Shankar Kumar Singh, son of Late Bramdeo Singh,
Resident of Bishunpur, P.S. Supaul, District Supaul

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Neeraj Kumar with
Mr. Satyajeet Kumar, Advocates

For the Opposite Party/s : Mr. Amarnath Jha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 17-07-2019

Heard learned counsel for the petitioner and learned
counsel for the opposite party.

2. The present application has been filed by the
petitioner, who is the wife of the opposite party, under Section 24
of the Code of Civil Procedure seeking transfer of Divorce Case
No. 6 of 2017 filed by the opposite party, which is pending before
the Principal Judge, Family Court, Supaul to the Court of Principal
Judge, Family Court, Madhepura.

3. Learned counsel for the petitioner submitted that the
marriage took place in the year 2011 but in the year 2016 she was



ousted from the matrimonial home as the demand of dowry could not be fulfilled. It was submitted that for the said incident she has lodged Complaint Case No. 672 of 2016 before the Chief Judicial Magistrate, Madhepura, which is pending. Learned counsel submitted that she has no independent source of income and she is totally dependent on her parents and going to Supaul to contest the matter would be harassment and the opposite party has filed the case at Supaul just to force her not to contest.

4. Learned counsel for the opposite party submitted that the petitioner has herself deserted him and has gone to her parents home. It was submitted that the opposite party is ready to keep the petitioner.

5. The Court, on such offer being made by learned counsel for the opposite party, put a query to learned counsel for the petitioner as to whether she would be agreeable to go and live with the opposite party. To such query, learned counsel for the petitioner submitted that the opposite party has remarried.

6. Without going into the issue as to whether the opposite party has remarried or not, in the considered opinion of the Court, a case for transfer of divorce case from Supaul to Madhepura has been made out balancing the equities, convenience of the parties and the ground realities. In this connection the Court



would refer to the decision of the Hon'ble Supreme Court in **Reena Bahri v. Ajay Bahri** reported as **(2002) 10 SCC 136** where at paragraphs no. 2 and 3 it has been held as under:

“2. The wife has a child, approximately three years old, with her in Bombay. She avers that she has no source of income and no one to travel with her from Bombay to Delhi. In the circumstances, she is unable to satisfactorily defend the divorce petition. It is contended on behalf of the husband that the transfer petition should be dismissed, and that he will pay for the wife's transport between Bombay and Delhi along with an escort, whenever required, as also pay for the travel of her witnesses in the matrimonial proceedings.

3. This misses two points. The first relevant circumstance is that there is a very small child with the wife in Bombay and the second is that the wife does not have anybody who can conveniently accompany her to Delhi. Apart from this, as is shown by the counter, there are already proceedings in Bombay which the husband has to defend. We think, in the circumstances, that the transfer petition should be allowed.”

7. Accordingly, the application is allowed. Divorce Case No. 6 of 2017, pending before the Principal Judge, Family Court, Supaul stands transferred to the Court of Principal Judge, Family Court, Madhepura. The Principal Judge, Family Court, Supaul shall transmit the entire records of the case to the Court of Principal Judge, Family Court, Madhepura within two weeks from the date of production of a copy of this order before him. Upon the records being received by the Principal Judge, Family Court,



Madhepura a new number shall be given and the matter would proceed in accordance with law.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	AFR
U	
T	

