

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 3752 of 2017

1. Shraddha Pandey, Wife of Bullet Kumar Bhardwaj, Daughter Arun Kumar Pandey, at present residing at Railway Colony, Madhuri Chowk, Road No.18, Building No.486, P.S. and District- Samastipur.
2. Arun Kumar Pandey, Son of Late Baleshwar Pandey, at present residing at Railway Colony, Madhuri Chowk, Road No.18, Building No.486, P.S. and District- Samastipur.

... .. Petitioner/s

Versus

Bullet Kumar Bhardwaj Son of Shri Pashupati Nath Pandey, Resident of Village + P.O.- Mahoddipur, P.S.- Siwan (M), District- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Waliur Rahman,
Mr. Nishant Kumar Sinha and
Mr. Amol Raj, Advocates

For the Opposite Party/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 04-07-2019

Heard learned counsel for the petitioners.

2. As prayed for by learned counsel for the petitioners,
let necessary correction be made in paragraphs no. 14 and 16 of
the application. The same be done during the course of the day.



3. Despite valid service of notice on the opposite party, nobody appeared when the matter was taken up and heard.

4. Learned counsel for the petitioners submitted that the petitioner no. 2, who is the father of the petitioner no. 1 has died during the pendency of the application.

5. Accordingly, his name is expunged from the present case.

6. The petitioner has moved the Court under Section 24 of the Code of Civil Procedure seeking transfer of Divorce Case No. 323 of 2016 filed by the opposite party, who is the husband from the Court at Siwan to Samastipur.

7. The opposite party has filed the said divorce case under Section 13(1) of the Hindu Marriage Act, 1954, against the petitioner which is pending before the Principal Judge, Family Court, Siwan.

8. Learned counsel for the petitioner submitted that she was living with her father without any support from the husband and after filing of the case, the father has died and now she is all the more helpless and without any resources to meet the expenses to conduct the case at Siwan. It was submitted that the application even otherwise is absolutely frivolous and without any merit. Learned counsel submitted that earlier the petitioner had filed a



criminal case when the opposite party had assaulted her. Learned counsel relied upon a decision of a Bench of this Court in **Smirti Singh vs. Anupam Ranjan** reported as **2011 (2) PLJR 989**, for the proposition that in the matter of transfer of divorce case from one place to another, the paramount consideration is the convenience of wife and that even payment of travel expenses by husband is not sufficient to meet the inconveniences.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the petitioner, the Court finds that a case for interference has been made out.

10. In the background of the uncontroverted and unrebutted materials on record indicating that the petitioner has no independent source of income and is dependent on her parents and even the father has recently died, the Court finds that justice demands that the divorce case be transferred to Samastipur where the petitioner resides.

11. Accordingly, the application is allowed. Divorce Case No. 323 of 2016, pending in the Court of Principal Judge, Family Court, Siwan stands transferred to the Court of Principal Judge, Family Court, Samastipur. The Court at Siwan shall transmit the records of the case to the Court at Samastipur within two weeks. Upon receipt of the records, the Principal Judge,



Family Court, Samastipur shall institute the case with a fresh number and proceed with it, in accordance with law.

(Ahsanuddin Amanullah, J.)

P. Kumar

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