IN THE HIGH COURT OF JHARKHAND AT RANCHI
Transfer Petition (Civil) No.18 of 2019
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Mrs. Soumya Gupta --- --- Petitioner

Versus

Mr. Rupesh Prasad Sah --- --- Opp. Party.

CORAM : The Hon'ble Mr. Justice Aparesh Kumar Singh

For the Petitioner : Mr. Manish Kumar, Adv.
For the Opp. Party : Mr. Prakash Chandra Ray, Adv.

06/24.01.2020 The cost of attending mediation for two dates has been paid in presence of the Court by the learned counsel for the opposite party to the learned counsel for the petitioner who acknowledges the same.

Heard learned counsel for the parties.

Petitioner wife seeks transfer of Original Suit No. 689 of 2018 instituted by the opposite party husband under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 for dissolution of marriage between the parties from the court of learned Additional Principal Judge, Additional Family Court, Dhanbad to the court of learned Principal Judge, Family Court, Jamshedpur.

Learned counsel for the petitioner submits that marriage was solemnized on 30th November 2014 at Ranchi and parties were living at Rajdhanwar in the district of Giridih where a daughter was born. There are averments relating to payment of expenses by the bride's family in the marriage. Learned counsel for the petitioner submits that due to non-fulfillment of further demand of dowry, opposite party started misbehaving with her and threatened to divorce her. Therefore, she had to leave for her native place. Petitioner is staying with her parents thereafter and a Complaint Case No.3237 of 2018 has been filed against the opposite party, his parents and relatives under Sections 313/323/406/498A/506/34 of the I.P.C. read with Sections 3 / 4 of the Dowry Prohibition Act and Sections 3 / 4 of the Prevention of Witch (Dain) Practices Act at Jamshedpur. She has also filed an application under Section 125 of the Cr.P.C. for maintenance which is pending before the Family Court, Jamshedpur. Learned counsel for the petitioner submits that the opposite party is appearing in these cases. There is no threat to him or any cause for apprehension in attending the Family Court proceedings at Jamshedpur. On the other hand, it is onerous, expensive and unsafe for the petitioner to attend the proceeding at Family Court in the

present Suit instituted by the opposite party along with her minor child on every date. Therefore, if the Suit is not transferred to the competent court at Jamshedpur, she would suffer irreparably and would not be able to contest it in a proper manner. Prayer for transfer of the Suit has, therefore, been made.

Learned counsel for the opposite party submits that the petitioner has lodged false complaints against the opposite party and the opposite parties have also lodged Sanha with apprehension of threat and abuse, if they attend the proceedings at Jamshedpur in connection with the complaint case and maintenance case. It would be unsafe for the opposite party to prosecute the Original Suit for divorce, if it is transferred to Jamshedpur. He submits that it would be proper if the Suit is transferred to any neutral place like Ranchi or Bokaro where both the parties can attend. Therefore, it is prayed that the instant petition being without merit is fit to be rejected.

I have considered the submissions of learned counsel for the parties, taken note of the facts and circumstances on record and the plea raised by the opposite party to resist the transfer of the Suit to the competent court at Jamshedpur.

From the material facts noted above, it can be inferred that the petitioner wife with a minor daughter born out of the wedlock is stationed at Jamshedpur at her parents house after marital discord and her departure from the matrimonial home and that she has also instituted two cases, one relating to maintenance under Section 125 Cr.P.C. and other relating to certain offences under the I.P.C., Dowry Prohibition Act and the Prevention of Witch (Dain) Practices Act at Jamshedpur. It further appears that the opposite party has been attending those proceedings at Jamshedpur. If the Original Suit for divorce instituted by the opposite party at Dhanbad is not transferred to the competent court at Jamshedpur, petitioner may be prevented from contesting the Suit in a proper manner considering the fact that she has no independent source of income and she has a minor child to care about. She would face inconvenience as well.

In these circumstances, I do not think that the plea raised by the opposite party to resist the transfer is sustainable. Accordingly, it is directed that the Original Suit No.689 of 2018 instituted before the learned Additional Principal Judge, Additional Family Court, Dhanbad by the opposite party be

transferred to the court of learned Principal Judge, Family Court, Jamshedpur forthwith. Let the records of the Suit be sent to the Family Court, Jamshedpur without any delay. The instant petition stands allowed.

(Aparesh Kumar Singh, J.)

Shamim/-