

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29936 of 2022

Arising Out of PS. Case No.- Year-0 Thana- District- Bhagalpur

Usha Kumari D/O Manoj Kapri Resident Of Village- Badeshaidpur , P.S- Jagdishpur , Dist- Bhagalpur

... .. Petitioner/S

Versus

1. The State Of Bihar
2. Mithilesh Kumar Singh Son Of Balram Mandal Resident Of Village- Badeshaidpur , P.S- Jagdishpur , Dist- Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Pandey
For the Opposite Party/s : Mr.Mohammed Arif

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 07-07-2022 Heard learned counsel for the petitioner and the other side.

The petitioner has filed this petition for transfer of Matrimonial case No. 270/2021 from Bhagalpur judgeship to Banka judgeship, which has been filed by opposite party no.2 who is the husband of the petitioner, for restitution of conjugal rights.

It is submitted by learned counsel for the petitioner that opposite party no.2 has filed the Matrimonial Case No. 270 of 2021 against the petitioner in the Bhagalpur court as he lives near the said city. It is further submitted that petitioner has also filed a complaint case against opposite party no.2 in the Mahila



Police Station Banka. It is submitted that the petitioner resides with her parents and children in Banka which is far away from Bhagalpur. Petitioner is mother of two sons aged about 8 and 5 years. She is poor and has no money to take care of her children as also to go to Bhagalpur for making proper pairvi in the present case. She is not in a position to pursue this case in Bhagalpur.

Learned counsel for the State submits that inconvenience of parties cannot be a valid basis for transfer of criminal proceeding from one Court to another.

It is settled law that jurisdiction of a Court to conduct a criminal proceeding is based on the provisions of Cr. P.C. Often either complainant or accused have to travel across entire state to attend criminal proceeding before the jurisdictional court. Likewise, witnesses too were to travel long distance in order to depose before the jurisdictional court. If the plea of inconvenience for transferring the cases from one court to another, on the basis of time taken to travel to the court conducting the case is accepted, the provision contained in Cr.P.C. conferring jurisdiction to try cases would become meaningless. Even if it assumed that a couple of days would be consumed for travelling to and fro, the inconvenience would not



be such as on basis for seeking transfer.

The same view has been reiterated by the Hon'ble Apex Court in the case of **Jyoti Mishra v. Dhananjay Mishra, (2010) 8 SCC 803** and in the case of **Rajesh Talwar v. Central Bureau of Investigation and others, (2012) 4 SCC, 217.**

In view of the law laid down by the applicant in case of **Jyoti Mishra (supra) and Rajesh Talwar (supra)**, the plea of petitioner is not acceptable. The transfer petition being devoid of merit, is dismissed.

(Prabhat Kumar Singh, J)

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