

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33112 of 2022

Arising Out of PS. Case No.-3 Year-2017 Thana- KHAGARIA COMPALINT CASE District-
Khagaria

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Dhiraj Kumar Paswan Son of Sushil Kumar Paswan Resident of Village -
Phulwaria Chowk, P.s.- Korha, Distt.- Katihar.

... .. Petitioner

Versus

1. The State of Bihar
2. Suman Kumari W/o Dhiraj Kumar Paswan , D/o Vinay Kumar Paswan
Resident of Village - C/10, Dumarighat Colony, P.s.- Chitragupta Nagar,
Distt.- Khagaria.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr.Pramod Kumar, Advocate
For the Opposite Party : Mrs. Pronoti Singh, Addl Public Prosecutor

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 17-08-2022 Petitioner seeks transfer of Complaint Case No. 3C of

2017 from the Court of the Sub Divisional Judicial Magistrate,

Khagaria to any other Court in adjacent district of Khagaria, i.e.,

Naugachiya, Saharsa and Bhagalpur.

It is submitted on behalf of the petitioner that since
the house of complainant is situated just beside the Civil Court
at Khagaria, she as well as her family members used to harass
the petitioner and other accused persons whenever they go to
attend the Court proceeding in this case. He further submits that
the petitioner is constable in police posted at Gaya and
complainant and her family members are bent upon to eliminate
the petitioner to get compassionate appointment. Earlier, when



he had gone to Khagaria for attending the Court proceeding, he had to face horrible situation for which he filed Sanha petition no. 751 of 2019 before the SDM, Khagaria (Annexure 2). Complainant and her family members also came to Gaya and brutally assaulted him and his brother and mother for which Rampur Police Station Case No. 304 of 2019 dated 26.8.2019 was registered against them. In the case, charge has already been framed and charge evidence is going on and once again opposite parties have threatened of dire consequences if the petitioner or any other accused person remains present in Court and try to cross examine witnesses and thus the same will affect the outcome of trial.

Learned counsel appearing for the State opposes the aforesaid prayer. He submits that on the ground of life threat to the petitioner and other accused persons to attend the Court proceeding, cannot be a sole ground for transfer of the criminal proceeding from one Court to the other Court.

Heard learned counsel for the petitioner and the State.

Apprehension of not getting fair and impartial trial has to be reasonable. In this case, the apprehension of petitioner is based on imagination and is baseless. The apprehension must be based on evidence and not on the basis of conjecture and



surmises simply because house of the opposite party no.2 is situated near the Civil Court, Khagaria. As such, plea of the petitioner that the complainant has threatened them of dire consequences if he and other co-accused persons attend the Court proceedings, cannot be a valid ground for transfer of the case to one Court to the other Court.

In that view of the matter, the transfer petition being devoid of merit, is dismissed.

(Prabhat Kumar Singh, J)

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