

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69247 of 2021

Arising Out of PS. Case No.-28 Year-2018 Thana- KHODAWANDPUR District- Begusarai

USHA SINGH W/o Late Ram Bilash Singh Resident of 12-D/10, Anandpuri, West Boring Canal Road, Near SBI Bank, P.S.- Buddha Colony, District- Patna, Pin-800001, presently residing C/o Hemlata Kumari (Daughter), Flat No.103, Ram Shyam Apartment, Ashok Nagar, Road No.11, Kankarbagh, Patna- 800020.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Registrar, Civil Court, Begusarai.
2. The Registrar, S.D.J.M Court, Manjhaul Begusarai.
3. Santosh Kumar Singh Son of Ram Bilash Singh Resident of Village- Shyampur, P.O. Baraipuna Via- Gharpara, P.S.- Chhauri, District- Begusarai, Pin Code 848204.
4. Anita Devi W/o Santosh Kumar Singh Resident of Village- Shyampur, P.O. Baraipuna Via- Gharpara, P.S.- Chhauri, District- Begusarai, Pin Code- 848204.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dr. Anand Kumar
For the Opposite Party/s : Mr.Sanjeev Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
CAV ORDER

7. 14-12-2022 The present application has been filed under Section 407 Cr.P.C. seeking transfer of following cases pending for adjudication in the court of the Additional District and Sessions Judge VIII, Begusarai and also in the court of the S.D.J.M., Manjhaul, Begusarai to the Civil Court, Patna:-

(i) Session Trial No. 236 / 2020 arising out of Khodawandpur (Manjhaul, Begusarai) P.S. Case No. 28/2018 for the offences under Section 341/323/504/34 of IPC in the matter of State of Bihar Vs. Santosh Kumar and Anita Devi.



(ii) Session trial No. 235/2020 arising out of Khodawandpur (Manjhaul, Begusarai) P.S. Case No. 227/2018 for the offences under Sections 341/323/307/379 of IPC in the matter of State of Bihar Vs. Santosh Kumar and Anita Devi.

Both cases pending before the A.D.J. VIII, Begusarai.

(iii) Khodawandpur, (Manjhaul, Begusarai) P.S. Case No. 229/2021 (G.R. No. 301/2021) for the offences under Sections 341/323/325/379/504/506 and 34 of IPC in the matter of State of Bihar Vs. Santosh Kumar and Anita Devi.

Pending before the Court of S.D.J.M. Manjhaul, Begusarai.”

Petitioner seeks transfer of all the aforesaid three cases to the Civil Court, Patna Sadar on the following grounds:-

A) That the trial of these cases has not yet commenced.

B) That the petitioner is an old widow lady, aged about 73 years, and suffering from various diseases, whose treatment is going on in Patna. She also suffered with Covil-19 and having heart disease, being treated at Heart Hospital, Patna.

C) That the petitioner is having apprehension of her life in attending the trial proceeding, going to be commenced, at Begusarai.



The grounds, which have been taken for transfer of all the aforesaid three cases, in exercise of power under Section 407 Cr.P.C. are not acceptable. It is settled law that in cases of dissolution of marriage, restitution of conjugal rights or maintenance, the Court shows much indulgence to the wife, but a criminal case is on entirely different footing. In a criminal proceeding, right of the accused to a fair trial and proper opportunity to defend himself cannot be ignored for the convenience of the informant simply because she happens to be widow and has apprehension of her life. There is no evidence with regard to threat or fear and in absence of same, the contention of the petitioner cannot be believed to be true.

Considering the aforesaid facts and circumstances, I do not find any ground to transfer afore-mentioned three cases to any other district and as such, this petition is dismissed.

(Prabhat Kumar Singh, J)

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