

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2348 of 2021

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Nisha Kumari, W/O Binit Ranjan, D/O - Akhilesh Mishra, Resident of Renu mansions, House No. 100, Ward No. 9 Shivpuri, Shiv Mandir Gali, PS and District Araria. Presently residing at Mohalla - Sri Nagar Hata, Near Remand Home in Deepalya Gali, P.S. - K. Haat, District- Purnia – 854301.

... .. Petitioner

Versus

Binit Ranjan S/O Sri Batesh Nath Pathak Resident of Resident of Renu mansions House No. 100, Ward No. 9 Shivpuri, Shiv Mandir Gali, PS and District Araria, residing at Flat No. 3/B, Maitri Apartment, Bansdrone, Nutan Bazar, Dakshin Rainagar, Kokatta - 700070 at present claimed to be residing at Flat No. 202, Prakash Tower, Brahmasthan Gali, Bailey Road, Sheikhpura, P.S. - Shastri Nagar, District- Patna.

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Rabindra Nath Tiwari, Advocate
For the	:	Mr. Rakesh Kumar Jha, Advocate
For the Opposite Party	:	Mr. Alok Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 29-06-2022

Heard learned counsel for the parties.

The present application has been filed for transfer of Matrimonial Case No. 1152 of 2021 from the Court of Principal Judge, Family Court, Patna to the Court of Principal Judge, Family Court, Purnea.

Learned counsel for the petitioner submits that the petitioner is an unemployed lady having one minor child and she is living in her parent's house, so she is unable to properly pursue this matrimonial case at Patna because she is having no source income and no maintenance is being given to her or her child by the opposite party.



Learned counsel for the opposite party submits that the matrimonial case may not be transferred to Purnea as the father-in-law of opposite party is a lawyer in Purnea and he apprehends danger to his life. He also submits that he is ready to bear the cost of the petitioner for each appearance at Family Court, Patna.

Learned counsel for the opposite party further submits that the petitioner has already appeared through a lawyer in the Court of Principal Judge, Family Court, Patna, therefore, the matrimonial case may not be transferred to the Court of Principal Judge, Family Court, Purnea.

Learned counsel for the opposite party relies upon a decision of the Supreme Court rendered in the case of ***Krishna Veni Nigam vs. Harish Nagam (Transfer Petition (Civil) No.1912 of 2014)*** and submits that his case is covered by the aforesaid judgment and therefore, this Court may not transfer the case from Patna to Purnea.

Considered the rival submissions of the parties.

In the opinion of this Court, the decision of the Supreme Court rendered in the case of ***Krishna Veni Nigam (Supra)*** relied upon by learned counsel for the opposite party is not applicable in the facts of the present case.



Considering the fact that the petitioner is a single lady and somehow managing her and her minor child and it will be difficult for her to visit Patna on each and every date to contest the divorce leaving behind her minor child and that the opposite party will have no difficulty in contesting and in pursuing his divorce case in Purnea, this application is allowed.

Accordingly, Matrimonial Case No. 1152 of 2021 is transferred from the Court of Principal Judge, Family Court, Patna to the Court of Principal Judge, Family Court, Purnea.

The records of Matrimonial Case No. 1152 of 2021 should be immediately sent by the Principal Judge, Family Court, Patna to the Principal Judge, Family Court, Purnea.

The opposite party shall appear in the Court of Principal Judge, Family Court, Purnea on 20.07.2022 and thereafter the case will proceed.

It has been submitted by learned counsel for the petitioner that one D.V. Case No. 06 of 2021 has been filed by the petitioner against the opposite party under the provisions of the Domestic Violence Act, 2005 in which one of the reliefs is for maintenance and in that case, the opposite party has already appeared but the case is proceeding at a very slow pace and the petitioner is unable to sustain herself without any maintenance



amount.

The Chief Judicial Magistrate, 1st Class, Purnea or the Transferee Magistrate is directed to dispose of the D.V. Case No. 06 of 2021 on day-to-day basis without giving unnecessary adjournment to either of the parties. The Magistrate is empowered to pass interim maintenance under the Domestic Violence Act, 2005. If any application for maintenance is filed by the petitioner then the same shall be decided within two weeks from the date of filing of such application.

With the aforesaid observations and directions, this application is allowed by directing the opposite party to deposit amount of Rs.25,000/- in the Court of Principal Judge, Family Court, Purnea, by way of demand draft within a period of four weeks from today. The Principal Judge, Family Court, Purnea, in turn, shall pay the aforesaid amount to the petitioner.

Let a copy of this order be communicated to the Court of Principal Judge, Family Court, Patna and the Principal Judge, Family Court, Purnea through FAX for its compliance.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	07.07.2022
Transmission Date	

