

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Jurisdiction Case No.4497 of 2018**

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Smt. Perna Jha Wife of Sri Alok Kumar Jha and Daughter of Sri Ram Pravesh Jha Resident of Saharsha Mission Compound, Behind Railway Quarter, P.S. Sadar Thana, District- Saharsa.

... .. Petitioner/s

Versus

Sri Alok Kumar Jha Son of late Yogendra Jha Resident of S.B.I. Campus, Mithila Colony, Bataganj, P.S. Danapur, District- Patna.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Prabhat Kumar Singh, Adv.

For the Opposite Party/s : Mr. Sumit Kumar, Adv.

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL JUDGMENT**

**Date : 04-10-2023**

Heard Mr. Prabhat Kumar Singh, learned counsel appearing on behalf of the petitioner and Mr. Sumit Kumar, learned counsel for the opposite party.

2. The petitioner by filing the present application under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of Matrimonial Case No. 479 of 2013 from the court of Principal Judge, Family Court, Patna to the court of Principal Judge, Family Court, Saharsa or any other equivalent court.



3. It is submitted on behalf of the petitioner that the petitioner is a hapless legally wedded wife of the opposite party whose marriage was solemnized with the opposite party on 03.06.2009 as per Hindi rites and rituals at her parental house situated at village Gobindpur Singhara, P.S. Mahua, District-Vaishali. However, soon after the marriage, she was subjected to cruelty on account of alleged mental disorder and finally she was ousted from her matrimonial home. He next submitted that being ousted, she has been residing at Saharsa along with her parents. It has also been informed to this Court that the petitioner has also filed maintenance case bearing Maintenance Case No. 27 of 2021, wherein pursuant to the interim order granted by the Family Court, some amount is being paid to the petitioner.

4. Further submission has been made that the petitioner is a poor lady and has been living with her old parents at Saharsa and thus pursuing the case at Patna would certainly cause immense inconvenience, apart from lots of mental trauma and financial problems.

5. On the other hand, learned counsel for the opposite party submits that though no ground for transfer of Matrimonial Case No. 479 of 2013 is made out but still he is



ready to join the proceeding, if Matrimonial Case No. 479 of 2013 is transferred to the court of Principal Judge, Family Court Saharsa.

6. Before parting with the final outcome, it would be worth noting that in the matter of transfer of divorce case from one place to another place, the point is well settled that the paramount consideration is the convenience of the wife. The Hon'ble Apex Court in the case of ***Sumita Singh vs. Kumar Sanjay*** since reported in (2001) 10 SCC 41 has highlighted the aforesaid issue. There are decisions of this Court on similar issue in the case of ***Kumari Archana @ Rina v. Ajit Ranjan*** reported as 2010(4) PLJR 848 and in the case of ***Smt. Prabha Gupta @ Munni vs. Santosh Kumar*** reported as 1996(2) PLJR 425 where this Court having considered the possible hardship and inconvenience of the lady, who is sought to be divorced in having to travel frequently to a distant place in order to defend the case filed against her, passed the order for transfer of pending suit from the court of the District Judge of one district to that of another district.

7. It would be also worth noted that the present matter is pending since 2018 but till date no counter affidavit has been filed on behalf of the opposite party.



8. From the materials available on record, it appears that the opposite party has already entered his appearance in the matrimonial case, that apart the petitioner has been living alone along with her old parents and in course of hearing of Matrimonial Case No. 479 of 2013, she has to travel more than 200 kilometres only from one side, which would certainly cause inconvenience to the petitioner.

9. Considering the averments made in the present petition, submissions advanced on behalf of the parties and the legal position as discussed hereinabove, this Court finds merit in the submissions of the petitioner and also appreciates the fairness of the opposite party, thus in the interest of justice, the divorce case *vide* Matrimonial Case No. 479 of 2013 stands transferred from the court of Principal Judge, Family Court, Patna to the court of Principal Judge, Family Court, Saharsa. It is made clear that on receipt/production of a copy of this order, the record of the case shall be sent to the Principal Judge, Family Court, Saharsa forthwith. Upon receipt of the records, the learned Principal Judge, Family Court, Saharsa shall issue notice to the parties fixing a date in the case and shall take all endeavours to conclude the matrimonial case as expeditiously as possible, preferably within a period of nine months, as the matter is pending since 2013. It is also expected



that both the parties will co-operate in disposal of the matrimonial case.

10. In view thereof, the application stands allowed.

**(Harish Kumar, J)**

Anjani/-

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