

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10810 of 2023

Arising Out of PS. Case No.-591 Year-2017 Thana- SHASTRINAGAR District- Patna

SMRITI KUMARI Wife of Rishikant Tiwary R/v- Tiwary Tola, P.S.- Maner,
District- Patna At present- D/o Jitendra Sharma, R/v- Bhakharua, Near Tiwari
Market, P.S.- Daudnagar, District- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. RISHIKANT TIWARY Son of Late Shashibhushan Tiwary R/v- Magal Market, Raja Bazar, Near Pillar No. 72, P.S.- Shashtrinagar, District- Patna
3. VIBHA TIWARY Wife of Late Shashibhushan Tiwary R/v- Magal Market, Raja Bazar, Near Pillar No. 72, P.S.- Shashtrinagar, District- Patna
4. AMRITA TIWARY @ PUTUL D/o Late Shashi Bhushan Tiwary R/v- Magal Market, Raja Bazar, Near Pillar No. 72, P.S.- Shashtrinagar, District- Patna
5. RAVIKANT TIWARY @ BICKY Son of Late Shashikant Tiwary R/v- Magal Market, Raja Bazar, Near Pillar No. 72, P.S.- Shashtrinagar, District- Patna
6. BABLI SHARMA Wife of Lalmohan Sharma R/v- Magal Market, Raja Bazar, Near Pillar No. 72, P.S.- Shashtrinagar, District- Patna
7. NIL SHARMA Son of Lal Mohan Sharma R/v- Magal Market, Raja Bazar, Near Pillar No. 72, P.S.- Shashtrinagar, District- Patna
8. ISHU SHARMA Son of Lal Mohan Sharma R/v- Magal Market, Raja Bazar, Near Pillar No. 72, P.S.- Shashtrinagar, District- Patna
9. ASHOK PANDEY Son of not Known R/v- Magal Market, Raja Bazar, Near Pillar No. 72, P.S.- Shashtrinagar, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Mukul Kumari

For the Opposite Party/s : Mr.Murli Dhar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 01-08-2023 1. The present application has been filed seeking
transfer of GR No. 6273 of 2017 arising out of Shastrinagar
PS Case No. 591 / 2017 from the court of S.D.J.M., Patna to the



court of competent jurisdiction at Aurangabad where the petitioner has been residing with her parents.

2. The petitioner, who is the wife of Opposite Party No. 2 filed Shastrinagar PS Case No. 591 of 2017 registered under Section 498A of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act at Patna alleging therein that on 11-07-2008 the marriage of the petitioner was solemnized with Opposite Party No. 2 under Hindu rites and rituals and out of the wedlock one girl child was born and after the death of father-in-law of the petitioner on 10-07-2014 the Opposite Party No. 2 and others started harassing and torturing the petitioner for dowry and due to non fulfillment of the dowry demand on 13/10/2016 the accused persons finally ousted the petitioner from her matrimonial home and since then she has been residing at Aurangabad with her parents.

3. Learned counsel for the petitioner submits that petitioner is a poor lady residing at Aurangabad with her minor child and parents as such she would suffer hardship if GR No. 6273 of 2017 continues at Patna. The Domestic Violence Case No. 02 / 2019 filed by the petitioner under Section 12 of the Domestic Violence Act is pending before the S.D.J.M., Daudnagar, Aurangabad.



4. The husband of the petitioner i.e. Opposite Party No. 2 has filed a matrimonial case for divorce bearing Matrimonial Case No. 342 / 2016 under Section 13 (1-a) of the Hindu Marriage Act, 1955 before the Principal Judge, Family Court, Patna in which ex- parte decree of divorce under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 has been passed by the Principal Judge, Family Court, Patna on 13-10-2017. The petitioner has filed a Miscellaneous Case No. 41 of 2018 before the Principal Judge, Family Court, Patna for setting aside the ex -parte decree of divorce which is pending. Upon query made by this Court that as the petitioner is pursuing the Miscellaneous Case No. 41 / 2018 in the Family Court, Patna, what would be the hardship if the petitioner pursues her case pending before S.D.J.M., Patna for trial under Section 498A of the IPC, the learned counsel for the petitioner has no answer to this and has admitted that no steps for transfer of Miscellaneous Case No. 41 / 2018 has been taken by the petitioner from Patna to Aurangabad.

5. In that view of the matter, in my considered view, the prayer of the petitioner for transfer of the G.R. No. 6273 / 2017 arising out of Shastrinagar PS Case No. 591 of 2017 from the court of S.D.J.M., Patna to court of competent jurisdiction at



Aurangabad is not fit to be considered at this stage.

6. Accordingly, the application is dismissed.

(Anil Kumar Sinha, J)

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