

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30268 of 2023

Arising Out of PS. Case No.-477 Year-2015 Thana- MADHUBANI TOWN District-
Madhubani

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MONI KUMARI Wife of Sri Rakesh Kumar Gupta Daughter of Shankar Sah,
Resident of Mohalla - Arya Samaj Road, P.S.- Town, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rakesh Kumar Gupta Son of Late Rajendra Sah Resident of Mohalla -
Gangasagar Donar, Near Marwari College Common Room, P.S.-
Laherisarai, District - Darbhanga at present posted as Branch Manager, State
Bank of India, Bokaro Industrial Area, Bokaro, Jharkhand.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. D.K. Sinha, Sr. Adv. Mr.Alexander Ashok
For the Opposite Party/state:		Mr.Ram Sevak Choudhary
For the Opposite Party-2 :		None

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 21-09-2023 1. Heard Mr. D.K. Sinha, learned senior counsel for

the petitioner and Mr. Ram Sewak Chaudhary, learned counsel

for the State of Bihar. No one appears for the Opposite Party

No. 2.

2. The present application has been filed under

Section 407 of the Cr.P.C. for transfer of TR. No. 1893 of

2016 / TR No. 1487 of 2018 arising out of Madhubani Town

P.S. Case No. 477 of 2015 dated 09-11-2015 instituted for the

offence punishable under Section 498A / 494 of the I.P.C. from

the court of Chief Judicial Magistrate, Madhubani to Civil



Court, Samastipur.

3. The brief facts of the case is that the marriage of the petitioner was solemnized with the O.P. No. 2 on 04.02.2001 and after some time the O.P. No. 2 started torturing the petitioner and assaulted her for not bearing child. It has also been alleged that a sum of Rs. 5 Lakh was also demanded as dowry and on 07-11-2015 the accused persons including the concubine of the O.P. No. 2 assaulted the petitioner, poured kerosene oil and tried to set her ablaze. After investigation, charge sheet was submitted and the learned Chief Judicial Magistrate, Madhubani has taken cognizance against the O.P. No. 2 and his *Keep* under Section 498A and 494 of the I.P.C.

4. Learned senior counsel for the petitioner submits that the O.P. No. 2 is living in adultery with one Jyoti Singh against whom cognizance has also been taken by the learned Magistrate. At the relevant point of time the petitioner was residing with her husband and ultimately she was thrown out of her matrimonial home. He further submits that Matrimonial (Divorce) Case No. 124 of 2018 has also been filed by the O.P. No. 2 seeking decree of divorce at Darbhanga. The regular appearance of the petitioner before the court at Madhubani as well as Darbhanga is causing great hardship to the petitioner,



who is at present residing with her old parents at Samastipur. The petitioner is not having any independent source of income and she is entirely dependent upon her parents whereas the O.P. No. 2 is working as Branch Manager, S.B.I., Bokaro [Jharkhand]. The petitioner has filed Maintenance Case at Samastipur *vide* Maintenance Case No. 34 of 2020 under Section 125 of the Cr.P.C. which is still pending before the learned Principal Judge, Family Court, Samastipur.

5. Learned counsel for the State submits that State has no role to play in the private dispute between the petitioner and the Opposite Party No. 2.

6. I have heard learned counsel appearing for the petitioner as well as State and have perused the materials on record. It is specific case of the petitioner that she is not having any independent source of income and her husband is not taking care of her and he is in relationship with another lady. The petitioner is residing with her parents at Samastipur wherein she is also pursuing a case filed by her seeking maintenance from her husband. The husband of the petitioner / Opposite Party No. 2 has filed a divorce case at Darbhanga and the present case is pending at Madhubani.

7. In view of the aforesaid facts that at three places



cases are pending between the parties and the O.P. No. 2 did not file any reply and his counsel also did not appear when the matter was called out on last date as well as today, accordingly, taking into consideration the facts in totality, I am of the considered view that petitioner is facing hardship in pursuing three cases at three different places.

8. Accordingly, in order to secure the ends of justice, TR. No. 1893 of 2016 / TR. No. 1487 of 2018 is transferred from the court of Chief Judicial Magistrate, Madhubani to the Civil Court, Samastipur.

9. The concerned court is directed to transfer the records of the aforesaid case before the Chief Judicial Magistrate, Samastipur as early as possible.

10. With the aforesaid observation and direction, the application is allowed.

(Anil Kumar Sinha, J)

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