

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1745 of 2022

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Neetu Kumari @ Neetu Anand W/o Amardeep Kumar Sonkar and Daughter of Shashi Lal Bihari @ Shashi Prasad Bihari, resident of Balti Karkhana Chowk, Kajichak Bounsi Road, Ward No. 45, P.O.- Mirjanhat, Police Station- Mojahidpur, District- Bhagalpur.

... .. Petitioner/s

Versus

Amardeep Kumar Sonkar S/o Kishun Prasad Sonkar resident of Mohalla- Sikandarpur Road (Near East India Transport) Ward No. 13, P.O. Head Post Office, Police Station- Town, District- Muzaffarpur- 842001.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms Kshem Sharm, Adv.
For the Opposite Party/s : Mr. Rakesh Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 12-10-2023

Heard Ms. Kshem Sharma, learned counsel appearing on behalf of the petitioner and Mr. Rakesh Ranjan, learned counsel for the opposite party.

2. The petitioner, who claims to be wife of the opposite party, has filed the present application under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of Divorce Case No. 182 of 2021 from the court of Principal Judge, Family Court, Muzaffarpur to the court of Principal Judge, Family Court, Bhagalpur.

3. The short facts which led to filing of the present



petition is that the marriage of the petitioner was solemnized with the opposite party on 18.02.2018 as per Hindu rites and customs. However, soon after the marriage, she was subjected to demand of dowry and ultimately just after 3-4 months she was ousted from her matrimonial home, which resulted into filing of Complaint Case No. 535 of 2019 against the opposite party and his family members, the same is pending in the court of learned S.D.J.M., Bhagalpur.

4. It is submitted on behalf of the petitioner that the opposite party, after having come to know about the aforementioned Complaint Case No. 535 of 2019, filed Divorce Case No. 182 of 2021 for grant of a decree of divorce under Section 13 of the Hindu Marriage Act, 1955 in the court of the learned Principal Judge, Family Court, Muzaffarpur. It is further submitted that on being ousted from the matrimonial home, the petitioner has been residing at her *maika* in Bhagalpur, having no source of income and is fully dependent upon her parents and brother. That apart, the distance of Bhagalpur to Muzaffarpur is about 250 kilometres and she being a hapless lady, is unable to pursue the proceeding pending before the court of the learned Principal Judge, Family Court at Muzaffarpur bonafidely.

5. The aforesaid contention has been refuted by the



learned counsel for the opposite party by filing counter affidavit and with reference thereto, it is submitted that the allegation levelled against the opposite party is out and out false and incorrect as prior to the institution of the complaint, the opposite party had filed a petition for restitution of conjugal right under Section 9 of the Hindu Marriage Act, 1955 being Matrimonial Case No. 553 of 2018 before the learned Principal Judge, Family Court, Muzaffarpur and only when summon was issued and served upon the petitioner, she filed the complaint case No. 535 of 2019 with a view to put undue pressure and wreak vengeance against the opposite party. He further submits that despite knowing fully well about the pendency of the restitution matter, the petitioner did not enter her appearance which resulted into *ex parte* order/judgment dated 21.09.2019. Notwithstanding, the order passed by the learned Family Court for restitution, she has never joined her matrimonial home, which speaks loud about the intention of the petitioner. Nonetheless, the petitioner is a permanent resident of Nawada district and only in order to persecute the opposite party, the present application has been filed. In support of the aforesaid submission, he has also brought a copy of the Aadhar Card showing her address at Nawada, which is marked as annexure



R/3.

6. Taking note of the rival submissions, put forth on behalf of the parties, the facts emerge before this Court is that the petitioner has been residing with her parents at Bhagalpur, where Complaint Case No. 535 of 2019 is pending consideration and the opposite party has already entered his appearance and moreover the distance between Bhagalpur to Muzaffarpur is admittedly about 250 kilometres and thus undoubtedly the difficulty would lie with the petitioner to travel such a long distance without the help of any family members, that apart she has to suffer a good expenditure for the same, that too when she has no source of income.

7. 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.

8. 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 thus in the interest of justice, the divorce case *vide* Divorce Case No. 182 of 2021 stands transferred from the court of Principal Judge, Family Court, Muzaffarpur to the court of Principal Judge, Family Court, Bhagalpur. 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, Bhagalpur forthwith. Upon receipt of the records, the learned Principal Judge, Family Court, Bhagalpur 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. It is also expected that both the parties will co-operate in disposal of the matrimonial case.



9. The present application stands allowed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	16.10.2023
Transmission Date	N.A.

