

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2159 of 2022

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Puja Kumari Wife of Kumar Shashiranjan D/o Late Ramashrey Ravidas,
Resident of Karauta Bigha, P.O. Doma, P.S. Salimpur, District-Patna.

... .. Petitioner/s

Versus

Kumar Shashiranjan Son of Suresh Praasd Resident of Village-Samaskhurd,
P.S. Barbigha, District-Sheikhpura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 11-07-2023 Heard the parties.

The present petition has been preferred for transfer of
Divorce Case No. 28 of 2022 from the Court of learned
Principal Judge, Family Court, Sheikhpura to the Court of
learned Principal Judge, Family Court, Patna.

Learned Counsel for the petitioner submits that she
has a son born out of the wedlock and to meet him, she travels
every week to Patna where he stayed with his '*naani*'. Further,
she has professional commitment being posted in Police Service
in Munger and as such, she may not be able to visit Sheikhpura
and thus the matter be transferred to Patna.

A counter affidavit has been filed on behalf of the
opposite party in which it has been incorporated in paragraph 12
that the lady herself has lodged Barbigha Case No. 314 of 2021



under various sections including 498A of the Indian Penal Code which falls within the District of Sheikhpura. It is his further submission that she travels from Munger to Patna and as such, it cannot be said that she is unable to travel to Sheikhpura which is just 70km from her work place.

The last submission is that the opposite party will be paying the travelling allowance as also the over night stay of the petitioner at Sheikhpura to the tune of Rs. 2,000/- for every visit.

This Court finds force in the submission put forward by the learned Counsel for the opposite party. The lady is in Police Service and is travelling every now and then to Patna which is 180 km from Munger and thus it cannot be her case that she cannot travel to Sheikhpura which is less than 100 km. This in the backdrop of the fact that the opposite party is ready to pay travelling allowance to the tune of Rs. 2,000/- per appearance which he will be depositing a day before the appearance date in the account of the petitioner, the details of which will be provided by the learned Counsel for the petitioner.

Further, Hon'ble Apex Court in the case of **Delma Lubna Coelho Vs. Edmond Clint Fernandes** reported in **2023 SCC Online SC 440** held in paragraph nos. 19 and 20 and the



same reads as follow :-

19. In the facts of this case in hand, the petitioner is a permanent resident of Canada. She had shifted there in the year 2014 and was working there on a well-paid job, however, came to India for the matrimonial alliance. She is presently based at Mumbai, Maharashtra with her parents and stated to be working in ICICI Bank. There is no child born out of the wedlock. The relation started after the parties met on Facebook. As far as the respondent is concerned, he is a doctor by profession and is living at Mangaluru, Karnataka. Divorce Petition has been filed by the husband at Mangaluru where he resides with his aged parents. Thereafter, the wife filed a petition for restitution of conjugal rights at Mumbai, Maharashtra.

20. Considering the status of the parties and the fact that it is petition filed by the wife seeking transfer of case filed by the husband from Mangaluru, Karnataka to Mumbai, Maharashtra, in our view no case is



made out for transfer of the petition from Mangaluru, Karnata to Mumbai, Maharashtra. The wife is a permanent resident of Canada. She must be travelling abroad regularly. As is evident from observations in the Mediation Report dated 08.02.2023 submitted Justice S.J. Vazifdar, the petitioner was in Canada throughout the mediation process and attended the proceedings online. There is no child born out of wedlock to be taken care of. Both the parties are well educated and engaged in their own jobs and professions. She can travel to Mangaluru to attend the hearing of the case and can also seek exemption from appearance whenever required. Though, at present, considering the financial condition of the parties on the basis of material which has come on record, we do not find that any ground is made out for issuing direction to the respondent to pay the expenses to the petitioner for travelling to Mangaluru. However, still in case she feels like seeking reimbursement of expenses, she shall be at liberty to file application before the court concerned, which may be



examined on its own merits.

In that view of the matter, this Court does not find it fit and proper to transfer the divorce case no. 28 of 2022 from the court of learned Principal Judge, Family Court, Sheikhpura to the Court of learned Principal Judge, Family Court, Patna.

The petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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