

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1079 of 2023

Arising Out of PS. Case No.-4 Year-2021 Thana- MAHILA P.S. District- Sitamarhi

NICKY GUPTA Wife of Ashirvad Kumar Daughter of Dilip Gupta, Presently Residing at Resident of Mohalla - Sriram Path, Kariya Tola, Ward No.- 25, Raxaul, P.S.- Raxaul, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ashirvad Kumar Son of Sri Mohan Prasad Resident of Mohalla - Old Exchange Road No.- 18, P.S.- Sitamarhi, District - Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhirendra Kumar
For the Opposite Party/s : Mr.Ram Naresh Ray

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 27-09-2023

1. Heard the parties

2. The present application has been filed under Section 407 of the Cr.P.C. praying therein for transfer of Mahila P.S. Case No. 04 of 2021 dated: 21.03.2021 registered under Sections 323, 498(A), 504 , 506 / 34 of the I.P.C. and Section 3/4 of the Dowry Act lodged by the petitioner, who happens to be the wife of the Opposite Party No. 2.

3. Learned counsel for the petitioner submits that after some time of the marriage of the petitioner with the O.P. No. 2, the O.P. No. 2 and his family members started demanding dowry in cash as well as in kind inasmuch as a Scorpio vehicle was also demanded by the Opposite Party No. 2 and his family



and due to non fulfillment of the demand, the petitioner was tortured mentally as well as physically and ultimately she was ousted from her matrimonial home. At present she has been living with her parents and is totally dependent upon them. Learned counsel next submits that petitioner has a minor child aged about 1½ years and she is having no earning and is fully dependent upon her father. He also submits that a maintenance case bearing Maintenance Case No. 225 of 2021 filed by the petitioner is still pending and even interim maintenance has not been awarded by the learned Principal Judge, Family Court, East Champaran, Motihari. He further submits that charge sheet has been filed on 17-05-2021 vide charge sheet no. 16 of 2021 and all the charge sheet witnesses are residing in East Champaran. The petitioner is facing prejudice and hardship in pursuing the case at Sitamarhi.

4. On the other hand, Mr. Abu Nassar, learned counsel for the O.P. No. 2 argued that the cause of action has arisen at Sitamarhi. Even the family members of the petitioner have put their signature in the F.I.R. at Sitamarhi and the allegation of torture and demand of dowry was made at Sitamarhi. Therefore, the present case does not deserve to be transferred merely upon asking of the petitioner.



5. I have heard learned counsel for the parties. It is admitted position that petitioner is residing with her parents at East Champaran, Motihari. She is having a minor child aged about 1½ years. She is not having any independent source of income and is fully dependent upon her father. The charge sheet witnesses are also family members of the petitioner residing at East Champaran.

6. In view of the aforesaid facts, I am of the opinion that it is expedient for the ends of justice to transfer the case from Sitamarhi to Motihari, East Champaran in order to mitigate the hardship caused to the petitioner. Accordingly, Mahila P.S. Case No. 04 of 2021 is transferred from Sitamarhi to East Champaran and the S.D.J.M., Sitamarhi is directed to transfer the records of the case to the Civil Court, Motihari at East Champaran.

7. With the aforesaid observation and direction the petition stands disposed of.

(Anil Kumar Sinha, J)

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