

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2252 of 2022

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Meenakashi Kumari Daughter of Late Lal Babu Sah, Resident of Mohallah-
Saidpur, Pankhatoli, Near Bhikhna Pahari, Post Office- Bankipur, Police
Station- Kadam Kuan, District- Patna.

... .. Petitioner/s

Versus

Hitesh Kumar Son of Late Dani Lal Sah, Resident of Village- Rashalpur,
Suhawan, P.O.- Bhagwanpur, P.S.- Bhagwanpur, District- Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar , Advocate
For the Opposite Party/s : Mr. Rajeev Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 26-11-2024

Heard learned counsel for the parties.

2. The present petition has been filed for transfer of
Matrimonial Case no. 63 of 2021 (Hitesh Kumar Vs. Meenakshi
Kumari) pending in the Court of learned Principal Judge
Family Court Vaishali, Hajipur to the Principal Judge Family
Court Patna .

3 . The short facts of the case , according to the
petitioner are that both the parties were married on 02.06.2013
according to Hindu rites and rituals but due to ill-treatment and
torture inflicted upon the petitioner by the opposite party and his
family members, petitioner was compelled to leave the
matrimonial house .

4. It is next submitted on behalf of petitioner that



earlier to present divorce case the husband, who is respondent/petitioner, herein has filed a petition under Section 9 of Hindu Marriage Act, 1955 for Restitution of Conjugal Rights vide Restitution of conjugal Right Case No. 36 of 2018 (Hitesh Kumar Vs. Meenakshi Kumari) before the learned Court of Principal Judge , Family Court, Vaishali at Hajipur and sought for grant of decree of Restitution of conjugal Rights against opposite party(petitioner/respondent herein). After hearing the parties, the same was allowed and both parties were directed to lead conjugal life with each other from the date of order i. e., Annexure 3 to the petition . After passing of the order of Restitution of conjugal Rights, the petitioner/Respondent went to the house of her husband and tried to maintain Matrimonial relation but the conduct of respondent/petitioner was not good with the petitioner/respondent and after few months of this petitioner (Meenakshi Kumari) was ousted from her matrimonial house .

5 . It is further submitted on behalf of petitioner that the respondent/petitioner has filed the divorce case against the petitioner in the Court of learned Principal Judge Vaishali at Hajipur only with a view to harass her.

6. Learned counsel for the petitioner lastly



submitted that petitioner is not in a position to go and attend day to day proceeding of Divorce Case No. 63 of 2022 (Hitesh Kumar Vs. Meenakshi Kumari) at Hajipur, (Vaishali) rather it will be easier to petitioner if the aforesaid case will be transferred to Patna .

7. In this case by filing counter affidavit, learned counsel for the opposite party submitted that both the parties are bank employees and after their marriage they settled at Baroda, Gujrat as per the Bank rules on August 2014. In the year 2016, the petitioner got herself transferred to Patna on the ground of sickness of her mother. However, the mother of the petitioner died in the year 2018 but the petitioner refused to join the matrimonial house and started living separately . It is further stated that they are blessed by a son but unfortunately he is not fine and diagnosed as 1. *Autism Spectrum Disorder*. 2. *Hyperactivity*, 3. *Abnormal EEG* by several medical and child development institutions like the kokilaben hospital, Mumbai, Dr. Samir H. Delwai, Mumbai, the Deepshikha Child development Institute, Ranchi, the Christian Medical College , Vellore and the AIIMS, Delhi.

8 . It is further submitted on behalf of opposite party that petitioner is working as bank employee and during her



service she was posted several places all over India and live there alone , so she is capable to attend the Family Court, Vaishali at Hajipur and now only to harass the answering deponent (i. e., opposite party), this petitioner filed the present Transfer petition . It is not out of place to mention here that the Family Court, Vaishali at Hajipur is not far away rather the same is within 10-12 K.M. from the present residence of the petitioner and the transport connectivity is also very good, so the petitioner will suffer virtually nothing and being an educated and working lady the distance of 10-12 K.M. is nothing, rather the answering deponent (opposite party) has to travel more than 40 K.M. to attend the Family Court, Patna from his house with his differently able son to whom the petitioner left him since last more than 5 years and the opposite party is taking care of his son with the help of his family members.

9. It is lastly submitted on behalf of opposite party that if the case is transferred from Hajipur to Patna then opposite party will suffer a lot whereas if the case is not transferred, petitioner will not suffer, because firstly the distance is measurable and secondly petitioner is totally free from any liability and lastly she has got all means of transportation .

10 . Having heard learned counsel for the parties,



and perused the materials available on record, this Court finds that the transfer petition is devoid of any merit. The distance between Hajipur and Patna is only 10 to 15 km and it is not so far that it will cause any inconvenience to the petitioner. Earlier also petitioner attended the Court in connection with Restitution petition bearing case no. 36 of 2018 (Hitesh Kumar Vs. Meenakshi Kumari) before the learned Court of Principal Judge , Family Court, Vaishali at Hajipur and at no point of time petitioner raised any grievance and attended the case till the conclusion of the case .

11 . In the aforesaid facts and circumstances, this petition is dismissed as devoid of any merit.

(Prabhat Kumar Singh, J)

Koushik/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2024
Transmission Date	NA

