

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.547 of 2023**

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1. Rani Kumari @ Kumari Rani Wife of Shri Mukesh Kumar and daughter of Shri Umashankar Prasad Bhagat, Resident of Village-Rajhatta Vinodpur, P.S.-Katihar, District-Katihar, at present residing at Resident of Maharajganj, P.O. and P.S. and District-Jamui.
2. Reyan Bhagat, minor son of Shri Mukesh Kumar under guardian ship of his mother namely Smt. Rani Kumar alias Kumari Rani, Resident of Village-Rajhatta Vinodpur, P.S.-Katihar, District-Katihar, at present residing at Resident of Maharajganj, P.O. and P.S. and District-Jamui.

... .. Petitioner/s

Versus

Mukesh Kumar Son of Late Bansiraj Prasad, Resident of Village-Rajhatta Vinodpur, P.O. and P.S. and District-Katihar.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s     | : | Mr. Prakash Mahto, Adv.       |
| For the Opposite Party/s | : | Mr. Sanjeev Kumar, Adv.       |
|                          | : | Ms. Preeti, Adv.              |
|                          | : | Mr. Ashishi Kumar Sinha, Adv. |
|                          | : | Mr. Ravi Kumar Pandey, Adv.   |
|                          | : | Mr. Shreya Jha, Adv.          |

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL ORDER**

4      12-02-2025                      1.    Heard learned counsel for the petitioners and  
learned counsel for the opposite party.

2. The present M.J.C. application has been filed for transfer of Matrimonial Divorce Case No.405 of 2022 filed on behalf of the opposite party for taking decree of divorce from the petitioner under Section 13(1)(i)(a) of the Hindu Marriage Act, 1955, which is pending in the Court of Principal Judge, Family Court, Katihar be transferred to the Court of Principal Judge, Family Court, Jamui.

3. The brief facts of the present case are that the petitioner no. 1, namely, Rani Kumari is a legally wedded wife of Shri Mukesh Kumar/Oppt. Party having married on



25.11.2013 with Petitioner No. 1 according to Hindu rites as an arranged marriage at the petitioner father's residence i.e. Maharajganj, Jamui, and petitioner no. 2 is their minor son. The marriage of the petitioner and the Opposite party has been registered as Certificate No. 04/2013 before the Marriage Officer, Jamui. In 2014, petitioner no. 1 with her husband/Opposite party went to Abu Dhabi where the Opposite party was appointed as Area Manager in a Metal Company and was getting a monthly salary in currency of Dirham 9,000 per month. In wedlock of petitioner no. 1 and the Opposite party, a male child was born on 26.10.2015, namely, Rayan Bhagat, who is petitioner no. 2, herein.

4. Learned counsel for the petitioners submits that a Matrimonial Case No. 405 of 2022 was filed by opposite party and on 25.07.2022 and on 20.08.2022, the learned court below issues summons, which was filed on 01.09.2022 and the case was fixed for *ex parte* hearing and the petitioner no. 1 could not appear earlier in the said matrimonial case and when she received the notice, she appeared before the Court of Principal Judge, Family Court, Katihar, through her learned counsel and came to know that the case has been fixed for *ex parte* hearing and, thereafter, prayer was made on behalf of the opposite party



to recall the *ex parte* hearing and the order dated 21.09.2022 fixed for *ex parte* hearing.

5. Learned counsel for the petitioners further submits that the petitioner no. 1, being a helpless lady and mother of an infant (Reyan Bhagat), used to tolerate every physical and mental torture caused by opposite party of this case. He further submits the petitioner is ready to appear before the Principal Judge, Family Court, Katihar.

6. A counter affidavit has been filed on behalf of the Opposite party in which it is stated that the petitioner was a short tempered and dominating woman who wanted to do everything according to her own will and liking. It is further stated that during the COVID period the opposite party lost his job and, therefore, the opposite party along with the petitioner (his wife) and their children came to India on 12.11.2020. Even after coming back to India the quarrels, fights and abuses between the petitioner and the opposite party did not stop rather exaggerated creating a wide gap between the parties.

7. Learned counsel for the opposite party submits that the petitioner along with her son left the house of the opposite party on 10.01.2021 in the absence of the opposite party without giving any information to any one and went to her *Maike*. The



opposite party and his family members requested the father of the petitioner to persuade the petitioner to reconcile, but the petitioner started shouting on hearing about reconciliation.

8. Learned counsel for the opposite party further submits that thereafter, a divorce petition has been filed by the opposite party against petitioner no.1 vide Matrimonial Case No. 405 of 2022 in the Court of Principal Judge, Family Court, Katihar.

9. Considering the aforesaid facts and circumstances, I direct the Family Court, Katihar, to recall the witnesses examined by the Opposite Party for the cross-examination by the learned counsel for the petitioners and a chance must be given to the learned counsel for the petitioners to cross-examine all the witnesses and, thereafter, final order shall be passed by the Family Court.

10. Accordingly, the order of stay dated 20.03.2024 is hereby vacated and this M.J.C. application stands disposed of with the aforesaid direction.

**(Anjani Kumar Sharan, J)**

anand/-

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