

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27624 of 2024

Arising Out of PS. Case No.-84 Year-2024 Thana- KHAGARIA District- Khagaria

Monika Kumari D/o of Dhanu Sao, Wife of Abhishek Raj @ Monu Raj
Resident of Mohalla- Murgia Chak Khagariya, Killar Showroom, Police
Station- Town, District- Khagariya, At present- Kathak Tal, Shersah Road,
Police Station- Alamganj, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Abhishek Raj @ Monu Raj Son of Dilip Raj Resident of Mohalla- Murgia
Chak Khagariya, Killar Showroom, Police Station- Town, District-
Khagariya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Krishna Jha, Adv.
For the Opposite Party/s : Mr. Ram Sumiran Rai, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 01-08-2025 Learned Advocate on behalf of the petitioner is
present. He has prayed for adjournment.

2. Prayer is refused.

3. The application under Section 407 of the Cr.P.C. is
taken up for hearing.

4. On perusal of the record, I find that the opposite
party no. 2 entered appearance and engaged as many as four
learned Advocates to defend the instant petition. However,
nobodies are present on behalf of opposite party no. 2.
Therefore, the application is taken up for hearing ex-parte.

5. The petitioner is the wife of opposite party no. 2.



The opposite party no. 2 lodged an F.I.R. on the basis of which Khagaria P.S. Case No. 84 of 2024 was registered under Sections 341/323/504/506 of the I.P.C. against the petitioner and her brother Ajay Kumar. It is alleged that the said F.I.R. contains false and concocted story only to harass the petitioner and her brother.

6. Opposite party no. 2 also filed a suit for divorce which has been registered as Matrimonial (Divorce) Case No. 69 of 2023 against the petitioner, before the learned Principal Judge, Family Court at Khagaria.

7. The petitioner has prayed for transferring the case from Khagaria to Patna on the ground that she has filed a case under the Protection of Women from Domestic Violence Act before the learned A.C.J.M., Patna City, which was registered as D.V. Case No. 34 of 2023.

8. The petitioner after being ousted from her matrimonial home has been residing at Patna and, therefore it causes both physical and financial inconvenience to the petitioner to attend court at Khagaria from Patna on each and every date when the above mentioned criminal case and the matrimonial case are fixed for hearing.

9. Having heard the learned Advocate for the



petitioner, this Court at the outset states that Matrimonial (Divorce) Case No. 69 of 2023 cannot be transferred from the court of learned Principal Judge, Khagaria under the provision of Section 407 of the Cr.P.C. because a suit for divorce is filed in civil jurisdiction and in order to transfer the said suit, civil court shall be approached. Section 407 has no manner of application to transfer a suit for divorce from one court to another.

10. With regard to Khagaria P.S. Case No. 84 of 2024, which the opposite party no. 2 has filed against the petitioner and her brother, this Court is of the view that since the opposite party requires to appear in D.V. Case before the learned A.C.J.M., Patna City. If Khagaria P.S. Case No. 84 of 2024 is transferred to the court of the learned A.C.J.M., Patna City, the opposite party no. 2 does not have any inconvenient to contest the case.

11. On the contrary, the petitioner will suffer both physically and mentally, if Khagaria P.S. Case No. 84 of 2024 is tried before the learned A.C.J.M., Khagaria. In such case, she requires to commute Patna to Khagaria to contest the case.

12. Considering such aspect of the matter, this Court is inclined to transfer Khagaria P.S. Case No. 84 of 2024 from



the court of learned A.C.J.M., Khagaria to the court of learned A.C.J.M., Patna City.

13. Both the courts below be notified.

14. The parties are directed to appear before the learned A.C.J.M., Patna City on the date fixed by him after transfer of the case.

15. The instant application is accordingly disposed of.

(Bibek Chaudhuri, J)

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