

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34869 of 2024

Arising Out of PS. Case No.- Year-0 Thana- District- Vaishali

SWETA JOSHI @ SWETA KUMARI JOSHI D/O NAGENDRA JOSHI
Resident of area of Makar Bazar (Nepal Medical Hall), P.O- Maker, P.S-
Maker, Distt.- Saran, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ravi Kumar, S/O Dinesh Prasad R/O the area of Agarpur (Chakbandi Road Lalganj), P.O- Lalhanj, P.S- Lalganj, Distt.- Vaishali, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Prabhat Kumar, Advocate
For the Respondent No. 2 :		Mr. Vishal Vikram Rana, Advocate
For the State	:	Ms. Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 26-06-2025 This is an application filed by the informant/petitioner under the provision of Section 407 of the CrPC seeking transfer of Complaint Case No. 2392 of 2022 registered in the Court of learned Additional Chief Judicial Magistrate, Vaishali, Bihar against the O.P. No. 2 for the offence under Sections 498A/379/323/347 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act.

2. It is found from the record that learned ACJM-II Vaishali took cognizance of the offence and issued summons against the O.P. No. 2. It is contended on behalf of the petitioner that the O.P. No. 2/husband never appeared in the trial court after obtaining bail.

3. The case of the petitioner is that she has been working in Tata Consultancy Services at Patna and it is very



difficult for her to attend court at Vaishali on each and every date of trial to represent herself. It is further stated by the petitioner that the O.P. No. 2 never appeared in the trial court to face trial and therefore, the trial of the case is being delayed. The petitioner, on the other hand, is on the verge of losing her job because she has taken more than permissible leave for the purpose of case which she has filed against the O.P. No. 2.

4. It is contended by the petitioner that if the aforesaid complaint case is transferred to Patna, she may save her job which is her only source of sustenance. It is also submitted by the petitioner that she was harassed and humiliated at Vaishali by the family members of the O.P. No. 2.

5. The learned Advocate on behalf of the O.P. No. 2 submits that the O.P. No. 2 intends to file a supplementary counter affidavit against the supplementary affidavit filed by the petitioner. This Court is of the view that no supplementary counter affidavit is required to be filed by the O.P. No. 2 in the instant case under the prevailing facts and circumstances.

6. Admittedly, the O.P. No. 2 lives in New Delhi. There would not be any hardship on the O.P. No. 2 to contest the case, filed by the petitioner at Patna directly coming from Delhi. If the case is transferred to Patna, he will not require to travel



Vaishali from Patna. This Court is really concerned about the protection of service of the petitioner. It is presumed that when the case under Section 498A of the IPC is pending between the parties, the petitioner has been living separately from her husband, there is no averments that the O.P. No. 2/husband provides maintenance to the petitioner, therefore, her job is the only source of her living and no court wants a lady to be destituted being terminated from service for taking excess leave on account of matrimonial dispute.

7. For the reasons stated above, I am inclined to transfer the case to the Court of the learned Chief Judicial Magistrate, Patna. Therefore, the instant petition is allowed. The Complaint Case No. 2392/22 be transferred from the Court of the learned ACJM-II, Vaishali to the Court of the learned Chief Judicial Magistrate, Patna for trial and disposal.

8. It is made clear that if the opposite party No. 2 fails to appear and take part in the trial, the trial court will be at liberty to cancel his bail and proceed with the trial keeping the opposite party in custody.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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