

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68548 of 2024

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

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Neha Jaiswal @ Neha Kumari W/o Sri Santosh Kumar Jaiswal, D/o Sri Srawan Kumar Jaiswal Resident of Rajendra Colony, P.S- Naugachhiya, Distt. - Bhagalpur, at present residing of vill - Ajhokopa, P.S. - Rupauli, Distt. - Purnea

... .. Petitioner/s

Versus

1. The State of Bihar
2. Santosh Kumar Jaiswal S/o Sri Bhola Prasad Jaiswal R/o Rajendra Colony, P.O.- Maniamod, P.S. - Naugachhiya, Distt. - Bhagalpur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Amit Kumar Anand, Advocate
For the State	:	Mr. Ram Anurag Singh, APP
For the O.P. No. 2	:	Mr. Ranjan Kumar Jha, Advocate
		Mr. Rana Pratap Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 18-04-2025

This application under Section 407 of the Cr.P.C. filed by the petitioner of Maintenance Case No. 95 of 2023, under Section 125 of the Cr.P.C., presently pending before the learned Principal Judge, Family Court at Bhagalpur to a court of competent jurisdiction in Purnea.

2. It is submitted by the petitioner that she is residing in Purnea, she requests to attend the court of learned Principal Judge, Bhagalpur on the dates of hearing of the petition under Section 125 of the Cr.P.C. However, on 05.03.2024, when she was going to the court of the learned Principal Judge, Bhagalpur, her husband



and two other persons restrained her on the road, abused her with filthy language and threatened her to withdraw the maintenance case. In view of such wrongful act committed by her husband and two other unknown persons, she apprehended that she might be tortured and harassed, if she would go to Bhagalpur on the next date of hearing, which was fixed on 16.05.2024. Stating the said fact, the petitioner submitted an application before the Superintendent of Police, Bhagalpur.

3. It is submitted by the learned advocate for the petitioner that the petitioner wants to get the said case transferred to Purnea in view of the threat perception.

4. The learned advocate on behalf of the opposite party/husband takes me to the counter affidavit filed by the opposite party. It is extraneously urged by him that the petitioner got a service of Data Entry Operator with a letter dated 20.04.2024 and she joined her place of posting at Purnea on 24.04.2024, only after her joining at Purnea the instant application has been filed on 13.09.2024. Thus it is submitted by the learned advocate for the opposite party that the petitioner wants to transfer the aforesaid maintenance case in the court within the jurisdiction where she is posted.



5. It is also pointed out by the learned advocate on behalf of the opposite party that police inquired into the allegation made by the petitioner before the Superintendent of Police, Naugachiya. During such inquiry it was ascertained by the police that the opposite party stays in Jammu & Kashmir working in Indian Army and there was no occasion for him to come to Bhagalpur to abuse and threaten the petitioner. The allegation made by the petitioner is found to be false. Therefore on such allegation maintenance case cannot be transferred from Bhagalpur to Purnea.

6. Section 407 of the CrPC stipulates exclusive jurisdiction of the High Court to transfer a case under the following circumstances viz.:-

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice.

7. In the instant case, the petitioner has filed an application for transfer of her case under Section 125 of the CrPC from Bhagalpur to Purnea, on the ground of her convenience



because the petitioner has been working as a Data Entry Operator at Purnea and she would face difficulty to contest the case at Bhagalpur. In *Fajlor Rahman v. State of Punjab*, reported in **2006 Cri.L.J. 3281(SC): (2006) 9 SCC 714**, it was held by the Hon'ble Supreme Court that the convenience of the complainant and the prosecution witnesses is a relevant matter to be considered for the purpose of Section 407 of the CrPC. In *Jhebarmal Barmal vs. State of Rajasthan* reported in **1990 (3) Crimes 53 (Raj)**, it was held that the transfer of the case on the ground of convenience of parties is permissible but the principle of territorial jurisdiction must prevail. Thus, when a venue is convenient to a lady who is destituted and denied maintenance of her husband, her convenience is a factor to be considered favourably in an application under Section 407 of the CrPC.

8. Section 126(1) of the CrPC speaks about the territorial jurisdiction of a proceeding under Section 125 of the CrPC which states that a proceeding under Section 125 may be taken against any person in any district -

(a) where he is, or

(b) where he or his wife resides, or

(c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.



9. It is not in dispute that the petitioner/wife at present resides in Purnea. She is working as a Data Entry Operator, therefore, the Family Court, Purnea has territorial jurisdiction to try an application under Section 125 of the CrPC.

10. The O.P., on the other hand, has been working in Jammu and Kashmir, therefore he does not have any difficulty to attend and contest the maintenance case either in Bhagalpur or in Purnea.

11. In view of the above discussion, this Court finds that this is a fit case where the maintenance Case No. 95 of 2023 ought to be transferred to the Court of the Principal Judge, Family Court at Purnea.

12. The learned Principal Judge, Family Court, Bhagalpur is directed to transfer the case to the Court of the learned Principal Judge, Purnea forthwith on communication of the copy of this order. The instant application under Section 407 of the CrPC is thus, disposed of.

(Bibek Chaudhuri, J)

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