

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3584 of 2023

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Shilpa Singh Wife of Abhay Kumar Singh, D/o ShreeRam Singh, at present residing at her fathers place at Karma Road, West to Police Line, P.S. Muffasil, District Aurangabad.

... .. Petitioner/s

Versus

Abhay Kumar Singh son of Jai Mangal Singh, Resident of 301A RD Tower Panchshil Nagar Gola Road PS Danapur District Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh, Adv.

For the Opposite Party/s : Mr. Prakash Chandra Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

8 31-10-2025

Heard Mr. Siddharth Harsh, learned Advocate for the petitioner and Mr. Prakash Chandra Jha, learned Advocate for the opposite party.

2. The present application is filed invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, 1908 for transfer of the Matrimonial (Divorce) Case No. 1037 of 2022 from the Court of learned Principal Judge, Family Court, Patna to the learned Principal Judge, Family Court, Aurangabad.

3. To support the relief claimed for in the present application, it is submitted that the marriage of the petitioner was solemnized with the opposite party on 25.01.2019 at Aurangabad. However, soon after the



marriage, the petitioner was subjected to torture through various means on account of non-fulfillment of demand of dowry, leading to institution of Aurangabad Mahila P.S. Case No. 14 of 2020. It is further contended that since the petitioner was not getting any financial support from her husband and she had been ousted from her matrimonial home, she also preferred a Maintenance Case being M.C. No. 104 of 2023 under Section 125 of the Cr.P.C. which is still pending before the court of learned Principal Judge, Family Court, Aurangabad. It is further informed to this Court that the in connection with aforementioned criminal case, when the opposite party had approached this Court for grant of anticipatory bail, he was allowed the privilege of bail on his undertaking to ensure payment of Rs. 10,000/- per month, what the petitioner is getting.

4. Besides the aforesaid submissions, Mr. Harsh, learned Advocate for the petitioner has further urged that two other matters are also pending before the jurisdiction of Aurangabad Court and moreover the petitioner being a lady fully dependent upon her parents has been forced to travel approximately 150 Kms. and thus, facing various



hardships in attending the Court at Patna.

5. On the other hand, learned Advocate for the opposite party, referring to the counter affidavit filed in opposition to the averments made in the transfer petition, submitted that the petitioner is not a house wife and a dependent lady rather she has done course of Company Secretaryship and doing a job at New Delhi. The petitioner is also getting Rs.10,000/- per month as directed by a Bench of this Court and, as such, no problem would arise to attend the court at Patna. The criminal case as well as maintenance case are said to be based upon frivolous allegation and the present transfer petition is said to be malafide, only in order to harass the opposite party.

6. This Court has considered the submissions advanced by the learned Advocates of the respective parties and taken note of the admitted position that out of three cases, two of the cases including criminal case as well as maintenance case are pending before the Courts within the territorial jurisdiction of Aurangabad.

7. It would be worth benefiting to notice a recent decision rendered in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*** (AIR 2022 SC 4318) where the Apex Court



while hearing a appeal, against the order rejecting the prayer for transfer of matrimonial suit, filed by the wife has set aside the order of the learned High Court by observing as follows;

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

8. In the recent past also, in the case of **Sunita Singh Vs. Kumar Sanjay and Anr. (2001 10 SCC 41)** and further in the case of **Rajni Kishore Pardeshi vs. Kishore Babulal Pardesh (2005 12 SCC 237)** the Hon’ble Supreme Court underscored that in case of transfer of matrimonial



matters, the Court should be given prime consideration and weightage to the convenience of the wife in case she has been compelled to travel at far distance place and facing financial hardship, beside the other reason.

9. This Court further finds that no materials have been brought on record to substantiate the submission to the extent that the petitioner is a working lady, except bald allegation, which has also been controverted by the learned Advocate for the petitioner.

10. For the reason, aforementioned, this Court finds substance in the present application; accordingly, let the Matrimonial (Divorce) Case No. 1037 of 2022 pending in the court of Principal Judge, Family Court, Patna be transferred to the Court of Principal Judge, Family Court, Aurangabad. On receipt of the record, the learned Court shall issue fresh notices to both the parties for their appearance and proceeding in the matter in accordance with law.

11. This present application stands allowed.

(Harish Kumar, J)

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