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IN THE HIGH COURT OF JUDICATURE AT PATNA
(Miscellaneous Jurisdiction Case)

M.J.C. No. _____/2013

Nemat Anwari. _____ Petitioner.

Versus

The State of Bihar & Another. _____ Opposite Parties.

Sub: Transfer Matter.

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IN THE HIGH COURT OF JUDICATURE AT PATNA
(Miscellaneous Jurisdiction Case)

M.J.C. No. _____/2013 (transfer)

In the matter of an application under Section
24 of the Code of Civil Procedure;

And

In the matter of:

Nemat Anwari wife of Md. Perwez Alam, daughter of Md. Anwer,
Resident of Village- Laheri Mohalla, Ward No. 11, P.O + P.S &
District- Madhepura. ----- Petitioner.

Versus

1. The State of Bihar, *through- D. M. Madhepura*
2. Md. Parwez Alam son of Late S.K. Jasim,
Resident of Village- Chakbani Office, Korha, P.S- Korha, District-
Katihar. ----- Opposite Parties.

To,

The Hon'ble Ms. Justice Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna, and Her companion Justices of the Said Hon'ble Court.

The humble petition on behalf of the petitioner named above:

Most Respectfully Sheweth:

1. That, this is an application for transfer of Matrimonial Case No.198/2008, which pending for trial and disposal in the Court of the Principal Judge, Family Court, Katihar, to the District of Madhepura, where the petitioner presently residing.
2. That, the petitioner has not moved before this Hon'ble Court or the Court of Sessions Judge, earlier, in the present matter.
3. That, the fact leading to this petition is that Md. Parwez Alam, (opp. Party no. 2) has filed a Matrimonial Case vide Matrimonial Case No. 198/2008 before the Principal Judge, Family court Katihar, on 25.08.2008 for restitution of conjugal rights against the petitioner. A true/photo copy of Matrimonial Case No. 198/2008 is annexed herewith and marked as Annexure-1 to this petition.
4. That, the petitioner marriage was solemnized according to the Muslim Law with the O.P No.2, and the petitioner was leading her

conjugal life with her husband but, after a short space of time the OP No-2 abandoned the petitioner and she is living Madhepura in her Naihar. She, as well as her parents are facing financial hardship, and it is extremely difficult for her and her parents to appear before the Family Court, Katihar because of both financial and physical constraints.

5. That, the appearance of the petitioner is necessary in this case for its better adjudication and she will be put to grave hardship if she has to go t to Katihar for the case in which dates are being given frequently and being a Pardanashin lady there is no one to accompany her.
6. That, the opposite party no-2 being aware of this fact, he filed the Matrimonial Case before the Family Court, Katihar is willfully trying to harass the petitioner even he is knowing the complicities of the petitioner.
7. That, the OP No-2 also filed a false case against the family members and relatives of the petitioner to take them under clutch vide **Complaint Case No. 56/2010**, which has been quashed by this Hon'ble Court by order, dated 12.04.2013, in Cr. Misc. No. 29523/2010.

A true/photo copy of the order dated 12.04.2013 is annexed herewith and marked as Annexure-2 to this petition.

8. That, the O P No.2, is in habit to file cases against the petitioner and her family members in his native district with intention to harass her and as she is being lady could no contest the case due to financial and physical problems which she suffers.
9. That, the marriage of petitioner with OP No-2 solemnized in Madhepura which itself appears from the Matrimonial Case, and after the marriage due to non fulfillment of dowry demand the husband of the petitioner along with his family members ousted her forcibly and the petitioner filed a case in this regard.
10. That, the petitioner is helpless lady and having no source of income, and she has also a daughter to care, and furthermore, the O P No-2 initiated a case against her far from her reach, to harass her and her baby to compel her to withdraw the case which is pending in the court of S.D.J.M, Madhepura.
11. That, from the above mentioned facts, it is crystal clear that petitioner will be put to grave hardship and inconvenience at Katihar, being a pardanashin lady and having a baby she will be able to defend case against her properly in Madhepura.

12. That, petitioner is ready to appear in the case but due to apprehension by O P No-2 and due to her financial and physical situation she is not in position to go to Katihar and Hence, has filed this petition for transfer of the Case, which pending for trial and disposal in Katihar.

Under the circumstances, it is therefore, prayed that Your Lordships may graciously be pleased to transfer Matrimonial Case No. 198/2008 which is pending in the Court of Principal Judge, Family Court, Katihar to the District of Madhepura.

And for this, the petitioner shall ever pray.

Affidavit

I, Nemat Anwari, aged about 26 wife of Md. Perwez Alam, daughter of Md. Anwer, Resident of Village- Laheri Mohalla, Ward No. 11, P.O + P.S & District- Madhepura, do hereby solemnly affirm and state as follows:

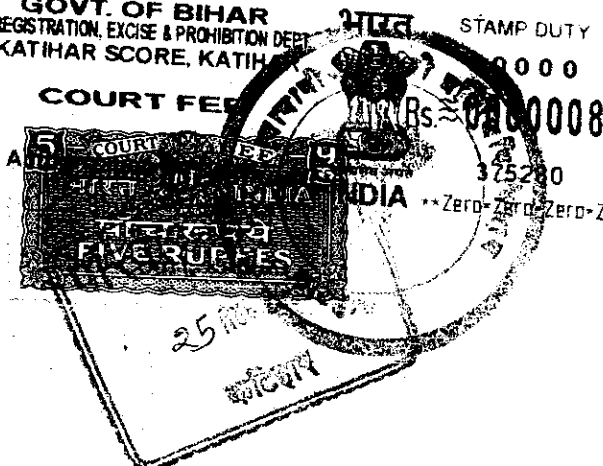
1. That, I am petitioner in this case, and as such as well acquainted with the facts and circumstances of the case.
2. That, the contents of this petitioner have been read over and explained to me which in Hindi, I have understood the same and I believe to be true as per knowledge which has got from the petitioner.
3. That, the Annexure-are Xerox/type copies of their respective original.

GOVT. OF BIHAR
REGISTRATION, EXCISE & PROHIBITION DEPT.
KATIHAR SCORE, KATIHAR

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In

The court of the Principal Judge,

Family court, Katihar

Distt.-Katihar.

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Ref:- Matrimonial Case No. 198 /2008.

Md. Parvez Alam S/o Sk. Jasirā

By caste- Muslim, by Occupation -Educated employed

resident of vill- Chakbandi, Office, Korha, P.S.-

Korha, Distt.-Katihar - - - Petitioner.

Vrs.

1. Ramat Angadi S/o Md. Parvez Alam O/o Md. Anwar,

by caste- Muslim, by occupation- Housewife, resident

of vill- Chakbandi Office, Korha, P.O, P.S.-Korha, Distt

Katihar and at present residing at vill- Lehri

Mohal a- Ward No 11, P.O, P.S.-Madhepura, Distt.-Madhep

ura - - - - - Respondent.



Handwritten signature/initials

The above named petitioner begs to

state as follows :-

Most respectfully sheweth :-

1) That the petitioner's marriage with the respondent

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परिवार न्यायालय
25 AUG 2008
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- 2 -

Parvez Alam

respondent took place on 15-12-2007 as per Muslim law

That the petitioner on the eve of marriage reached Madhepura with a Barari party including Dala containing costly jewellerys and clothings and after the solemnization the respondent was taken to her matrimonial home where marriage was consummated and the petitioner started to lead his conjugal life quite happily but a very short period of about 2 months .



Small

That thereafter the respondent was also taken Mahasra for sate seeing and enjoying the natural beauty and historical places and after returning from there the respondent ask d the petitioner to accompany her to Tamil Nadu where the petitioner has been studying and preparing for the job .

That the petitioner said that it was beyond his capacity to maintain her there best ,she should wait for some time at his home where there no problem . of any thing as well a she being the eldest daughter in-law ought to have obeyed her parent's in-law but in vai

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परिवार न्यायालय
25 AUG 2008
मुंबई

Lawyer Name

- 3 -

parents' law put in vain .

That the father of the respondent came for bridegari took the respondent to Madhepura a usual but by then the respondent had become pregnant .

That the petitioner had been caring the respondent in all respect by giving her due love affection and all that she was in need of it.



That respondent as several dates denied to come in bridegari and life in the society of the petitioner.

That the petitioner on 21-07-2008 with his brother Sirfrez went to Madhepura for the bridegari of the respondent To his dismay and utter surprize the petitioner and his brother were illegally confined by force and their signature on blank stamped papers were taken by the parents with the help of some other persons . However that time respondent had protested against the illegal act and overt acts of her parents.

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Case Record

That in spite of all the humiliation the petitioner took his wife to his home but after her arrival the parents continued to threat the petitioner and family members in various ways .

That the respondent was kept with all love and care but she again stressed upon the petitioner to adjust in some big town by leaving the parental home and on his denied the respondent called for her parents and others and with the help of anti social people abused and humiliated and the petitioner and his family members .

That ultimately on 21-08-2008 the respondent left her matrimonial home without the will , desire and permission of the petitioner by taking all he belonging by force with the help of her father and mother and others .

That the cause of action took place on several dates after marriage and lastly on 21-08-2008 at



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परिवार न्यायालय
25.11.2008
जयपुर

Lawyer Nam

at 10 A.M. when the respondent deserted her matrimonial home on 21-08-2008.

That the cause of action took place within the jurisdiction of this court .

That the petitioner after filing the fixed court fee of Rs. 125 begs to file this suit on amongst the following other reliefs :-

:-RELIEFS :-

- A) Let the court be pleased to declare that the respondent is the legal married wife of the petitioner.
- B) Let the court be pleased to direct the respondent to restitute her conjugal life so that the petitioner may re-start his conjugal life.
- C) Let the court be pleased to award any other relief or reliefs as the court may think just and proper .

And for this the petitioner shall ever pray.



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VS

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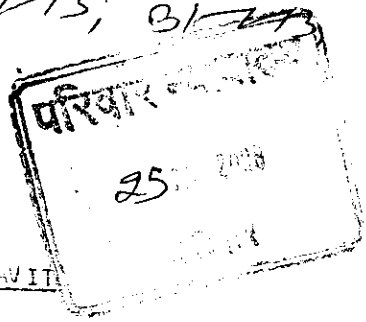
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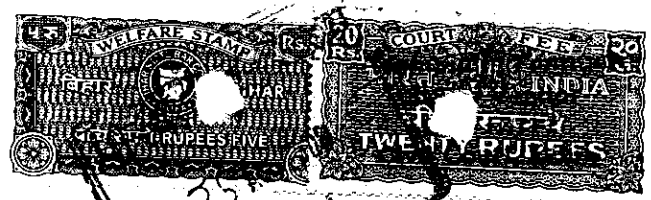
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Lawyer Alam

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- 6 -



VERIFICATION & AFFIDAVIT



67-43

IMd. Perez Alam s/o Sk. Jasim resident of village-
Chakbandi office, Korha, P.O, P.S. -Korha, Distt.-Katihar do
hereby solemnly affirm and declare that the contents made
above are true to the best of my knowledge, belief and
information.

Verified and signed this on 25-08-2008 within
_____ court, Katihar.

Identified by
[Signature]
Advocate/Katihar

Perez Alam

मैंने इस दस्तावेज़ की जांच की है कि यह सच है।
I have checked this document.
यह सच है।
This is true.
25.8.08.

Prepared by
[Signature]

Compared by
[Signature]
Comp. Clerk

A fee Rs. 10/-
[Signature]

Certified to be true Copy
[Signature]
Certifying Officer
Accountant D. Court, Katihar
Authorized Under Section 107 of the Act of 1977

Patna High Court Cr.Misc. No.29623 of 2010 (07) dt.12-04-2013

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29623 of 2010

- 1. Md. Anwar Alam @ Anwar Alam
- 2. Bibi Roshan @ Bibi Noor Jahan
- 3. Md. Nishat @ Md. Nishat Anwar
- 4. Nazia Anwari @ Najrana Praveen
- 5. Firoz Alam @ Munna
- 6. Roomi Anwari @ Rabia Anwari
- 7. Firoz Alam @ Md. Firoz Alam

..... Petitioner/s

Versus

- 1. State Of Bihar
- 2. Parwez Alam

..... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nabuzzoha &
Mr. Md. Naushaduzzoha-Advocates

For the Opposite Party/s : Mr. Anuj Kumar Srivastava-A.P.P.
Mr. Amarnath Jha- Advocate for O.P.

CORAM: HONOURABLE MR. JUSTICE MANDHATA SINGH
ORAL ORDER

07 12-04-2013

This is an application for quashing the order dated 15.05.2010 passed by the Court of Mr. A. Shamim, learned Judicial Magistrate, 1st Class, Katihar in Complaint Case No.56 of 2010 under Sections 323, 379 and 504 of the I.P.C.

Heard learned counsel for the petitioners and learned counsel for the State.

Allegation in the case, in brief, is that all the accused-petitioners came to the complainant's house under a conspiracy on pretext to settle the differences of 'Bidagri' of complainant's wife; they were accommodated in the house giving proper facility. Further, it is alleged that at about 11.00 P.M. they started to abuse the complainant in filthy language asking to withdraw the case of restitution of conjugal right. Accused-petitioner nos.1 and 3 are alleged for causing assault to the complainant and

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her old and helpless mother. Further allegation is about taking away of a box containing clothes and ornaments, snatching of wrist watch and ring from the complainant by accused no.7.

For restitution of conjugal right a Matrimonial Case No.198 of 2008 was pending. Submission on behalf of learned counsel for the petitioners is that something is disclosed and something is hidden, filing of restitution of conjugal right case by the husband is given, but filing of Complaint Case No.1053 of 2009 by wife against the complainant and other in-laws is hidden. Matrimonial case goes to show that complainant's wife was residing with her parents and complaint case goes to show that relation was strained till then and there could be no occasion of coming of accused persons to the house of complainant. Non-mentioning of complaint case clearly goes to show that complainant has not appeared with clean hand. On the point of snatching of wrist watch and ring. Complaint is about snatching of ring from complainant while his mother in her statement as Enquiry Witness No.3 states about snatching of her ear-ring and complainant from mother but ring only. On this point also witnesses are not constant. Circumstance was not existing leading the circumstance about coming of accused-petitioners to the house of complainant. So, prosecution appears mala fide. Hence, impugned order is not liable to be sustained.

Accordingly, this quashing application is allowed and impugned order dated 15.5.2010 passed in Complaint Case No.56 of 2010 along with the whole prosecution against the petitioners is hereby quashed.

ikash/N.A .R.

Sd/- (Mandhata Singh, J)

SHAWHAN TO BE TAKEN PHOTO COPY

21/12/13

For Joint Registrar (J)
Patna High Court
Constituted U/S Sec 1 of 1878

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T. S. S. S.
15-04-2013
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COPYING