

**IN THE COURT OF SESSIONS JUDGE, PATNA.
Criminal Misc. (Transfer) Case No. 247 of 2024.**

**Kunal @ Kunal Yadav, S/o Sri Anjani Kumar
R/o:- Ashok Nagar, Kankarbagh, P.S.- Agamkuan,
Patna-800020. A/P:- R/o Serenity, Doddakallasandra,
Kankapura Road, Bengaluru, Pin Code- 560062(Kamataka)**

..... Petitioner

Versus

**1. The State of Bihar
2. Asmita Kumari, W/o Sri Kunal
R/o:- Yusufpur, P.S.- Khusrupur, District- Patna**

..... Opposite Parties

**Counsel for the Petitioner :-Sri Saket Gupta, Advocate,
Counsel for the State :-Sri Vijay Kumar Sinha, I/c P.P.
Counsel for the O.P. 2 :-Sri Arvind Kumar Mauar, Advocate**

ORDER

20.11.2024

1. The present criminal miscellaneous transfer application has been filed U/s 408 of the Code of Criminal Procedure, 1973 on behalf of the petitioner, **Kunal @ Kunal Yadav** (one of the accused of Complaint Case No. 155(C)/2024), for transfer of Complaint Case No.155(C)/2024 titled **Asmita Kumari versus Kunal Yadav** from the Court of learned SDJM, Patna City to any other Court at Patna Sadar for hearing and disposal.
2. Heard the learned counsel for the petitioner, learned I/c Public Prosecutor for the State, as well as learned counsel for O.P.2 (complainant of Complaint Case No.155(C)/2024) and also perused the trial court record.
3. The learned counsel for the petitioner submits that the above referred complaint case was filed on 13.02.2024 by O.P.-2 before the Court of learned ACJM-1, Patna City, which was transferred on 16.02.2024 to the Court of Ms. Pratima Kumari, learned J.M. 1st Class, Patna City. The case record was received in the said Court on 16.02.2024 i.e. on the same day and the statement of complainant/O.P.-2 was recorded on next day i.e. on 17.02.2024. Thereafter, the statement of witness no.1 Ashok Kumar was recorded on 19.02.2024 and of

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witness no. 2 Leela Kumari on 23.02.2024, followed by statement of witness no. 3 Deepak Kumar on 26.02.2024/27.02.2024. On the same day, evidence on behalf of complainant was closed. Complainant was heard on 28.02.2024 and the record was fixed for orders on 01.03.2024. On 01.03.2024 Ms. Pratima Kumari, learned J.M.1st Class, Patna City has passed an order wherein she found a prima facie offence under Section 498A, 420, 406, 379 read with 34 of Indian Penal Code, 1860 and 3 & 4 of Dowry Prohibition Act against the petitioner and other co-accused persons and, directed for issuance of summons.

4. Subsequently, on 04.03.2024 record was transferred to the Court learned SDJM, Patna City as the matter related to Dowry Prohibition Act, 1961. The record of Complaint Case No.155(C)/2024 was received on 19.03.2024 in the office of learned SDJM, Patna City.

5. Learned counsel for the petitioner submits that the Complaint Case No.155(C)/2024 is progressing at an unusual speed. Also, the learned SDJM, Patna City vide order dated 23.07.2024 has issued non-bailable warrant of arrest against the petitioner and other co-accused persons which shows prejudice on her part. The reason for the same is that O.P.-2/complainant is relative of the Secretary of Bar Association, Patna City and is influencing the proceeding of the complaint case in the said Court. Due to such influence, exceptionally short adjournments are granted to O.P.-2/Complainant and is also managing to influence the Court to pass illegal orders. The petitioner apprehends that he will not get fair and impartial inquiry or trial and his apprehension is reasonable under the circumstances. Therefore, prayer for transfer of Complaint Case No. 155(C)/2024 from the Court of learned SDJM, Patna City to any other Court at Patna Sadar.

6. Learned counsel for the State as well as learned counsel for the O.P.-2/complainant submits that other co-accused persons, who are relatives of the petitioner has approached Hon'ble Patna High Court for quashing of order dated 01.03.2024 and Hon'ble Patna High Court vide order dated 30.07.2024 passed in Criminal Miscellaneous No.56262 of 2024 has been pleased to direct that during pendency of the said Criminal Miscellaneous Case, further proceedings in the Court below in connection with Complaint Case No. 155(C) of 2024 shall remain

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stayed. Therefore, under such circumstance it would not be appropriate for this Court to pass any order in the present Criminal Misc. (Transfer) Case No.247/2024. Even otherwise, no prejudice shall be caused to the petitioner if no order is passed at the moment as the said complaint case is not proceeding in view of the stay of the Hon'ble Court.

7. As a rebuttal learned counsel for the petitioner submits that an order in the present Criminal Misc. (Transfer) Case No.247/2024 would not amount to violation of the stay order of the Hon'ble Patna High Court dated 30.07.2024 passed in Criminal Miscellaneous No. 56262 of 2024.

8. Having regard to the fact that the Hon'ble Patna High Court vide order dated 30.07.2024 passed in Criminal Miscellaneous No. 56262 of 2024 has been pleased to stay the proceeding of Complaint Case No.155(C)/2024, this Court does not deem it appropriate to pass any order in the present criminal miscellaneous transfer case, until further orders from Hon'ble Patna High Court in the said criminal miscellaneous case. Even otherwise, no prejudice shall be caused to the petitioner if no order is passed for the present.

9. Under the circumstances noted above, the matter stands adjourned. Office is directed to return the record of Complaint Case No. 155(C)/2024 to the Court concerned.

10. Re-list on 18.12.2024 awaiting further orders from Hon'ble Patna High Court in Criminal Miscellaneous No. 56262 of 2024.

(Dictated)

Sd/-

(Rupesh Deo)

Sessions Judge, Patna.