

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.414 of 2014

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1. Md. Javed Hussain Son of Md. Akhtar Hussain resident of village Maheshpur Miya Toli, Police Station Piri Bazar, District- Lakhisarai

.... Petitioner/s

Versus

1. The State of Bihar
 2. Bibi Arju Khatun W/o Md. Javed Hussain resident of village- Maheshpur, Police Station- Piri Bazar, District- Lakhisarai at Present Mohalla Murgiyachak, Police Station Kotwali, District- Munger

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Adv.

For the Respondent/s : Mr. Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 07-01-2015 Heard learned counsel for the petitioner, learned counsel
 for O.P. No.2 as well as learned APP for the State.

Gone through the order impugned.

The parties, being spouses, are at loggerheads. The proceeding under Section 125 Cr.P.C. was launched at the behest of O.P. No.2 in which final order was passed on 22.01.2011 against which Cr.Revision No. 610/2011 was filed and the same was allowed vide order dated 24.12.2013 with a following direction:-

“ Accordingly, the order impugned is set aside. Petition is allowed. The matter is remitted back to the learned Lower Court to pass fresh judgment after hearing both the parties in accordance with law.”

Thereafter the matter revived before the learned lower court wherefrom the matter has been disposed of vide order dated 15.03.2014, the order impugned. Gone through the same.

Heard both sides.

The direction to the learned lower court was to the effect of passing a fresh judgment after hearing both the parties. Not to apply patch. When the order dated 22.01.2011 was set aside then in that event, there was no order and when there was no order, there was no scope left for learned lower court to pass such kind of order rather it was expected at the end of learned lower court to have heard both the parties and would have passed a fresh judgment in the background of direction whatsoever given under Cr.Revision No. 610/2011.

Accordingly, the order impugned is set aside. Petition is allowed. The matter is remitted to the learned lower court with a sermon to adhere to the direction of the Court in true spirit and will pass the judgment afresh after hearing both the parties. The learned lower court will complete its exercise within two months from the date of production/receipt of the instant order.

(Aditya Kumar Trivedi, J)

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