

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No. 457 of 2017

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Chandra Kishore Khetan, son of Late Prabhu Dayal Khetan, resident of Village-
Gogri (Jamalpur Bazar), P.S.- Gogri, District- Khagaria.

.... Defendant No.2-Petitioner.

Versus

1. Bengali Khetan @ Padam Kumar Khetan.

2. Prakash Kumar Khetan.

Both sons of Sheo Shankar Khetan, Both are resident of Village- Jamalpur Bazar,
P.S.- Gogri, District- Khagaria. ... Plaintiffs-Respondent 1st Set.

3. Bindeshwari Mandal, son of Late Samalu Mandal, resident of Village- Bari
Malia, P.S.- Gogri, District- Khagaria.

... Defendant No.1-Respondent 2nd Set.

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Appearance :

For the Petitioners : Mr. Dronacharya, Adv.
Mr. Vijay Bardhan Pandey, Adv.
Mr. Arghesh Kumar, Adv.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

Date: 27-04-2017

Heard Mr. Dronacharya, learned counsel appearing
on behalf of the petitioner both on merits as well as on interlocutory
application (I.A. No.2880 of 2017).

The legal acceptability of the impugned order by
which the certified copy of the judgment in G.R. No.420 of 1997 has
been accepted in evidence on behalf of the plaintiffs is in question in
this application under Article-227 of the Constitution of India.

The matrix of the facts is not in dispute that the
plaintiffs have filed the suit claiming damages and compensation from
the defendants for malicious prosecution and harassment in the
criminal case instituted by the defendants wherein ultimately the



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plaintiffs were acquitted. It further transpires from the facts that the evidence of the parties was complete and, after hearing the arguments, the judgment was reserved. At that stage, the plaintiffs-respondents filed a petition praying before the Court to take in evidence the certified copy of the judgment passed in the criminal case as above-mentioned.

It is apparent from the petition filed by the plaintiffs in the learned Court below on 14.12.2016 (Annexure-1) that it has been asserted that the certified of the judgment in the criminal case has already been filed by the plaintiffs along with the plaint of the suit. In his reply (Annexure-2), the defendant-petitioner has not specifically denied the said fact.

After considering the facts and circumstances, the learned Court below by the impugned order has allowed the prayer of the plaintiffs and has taken the judgment of the criminal case, as abovementioned, in evidence, marking it as Ext.1, after imposing a cost of Rs.2000.00 upon the plaintiffs as well.

Mr. Dronacharya, learned counsel for the petitioners has submitted that the learned Court below has committed illegality in ignoring the fact that the plaintiffs have deliberately and in utter negligence not filed the aforesaid certified copy of the judgment of the criminal case during the stage when the evidence of the parties was



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going on and have filed it precisely at the stage before the judgment was reserved. It has been contended that a bare perusal of the certified copy of the judgment in criminal case sought to be adduced in evidence by the plaintiffs will show that even after obtaining the said copy there had been substantial delay in producing the said copy before the learned Court below. Learned counsel has further relied upon the decisions in the case of **Suresh Yadav Vs. Ram Chander Yadav 2005 (4) PLJR 87** and in the case of **K. K. Velusamy Vs. N. Palanisamy 2011 (2) PLJR 138 (SC)**.

After considering the submissions and materials on record, it is evident that the suit has been filed by the plaintiffs claiming damages/compensation against the defendants for their false prosecution in the criminal case at the instance of the defendants. It is also evident that after completion of the argument, the plaintiffs filed the petition for accepting the certified copy of the judgment of the said criminal case, which was, in fact, the basis of the suit, as evidence. The fact, however, is also demonstrably clear that the assertion of the plaintiffs that the certified copy of the said judgment was already filed along with the plaint has not been denied by the defendants. The Apex Court in case of **K. K. Velusamy (supra)** has considered the ambit and scope of the power of the Court to take evidence after the judgment has been reserved and has ruled as



follows in paragraph-13 of the judgment, which reads as under:

“13.The need for the court to act in a manner to achieve the ends of justice (subject to the need to comply with the law) does not end when arguments are heard and judgment is reserved. It there is abuse of the process of the court, or if interests of justice require the court to do something or take note of something, the discretion to do those things does not disappear merely because the arguments are heard, either fully or partly. The convention that no application should be entertained once the trial or hearing is concluded and the case is reserved for judgment is a sound rule, but not a straitjacket formula. There can always be exceptions in exceptional or extraordinary circumstances, to meet the ends of justice and to prevent abuse of process of court, subject to the limitation recognized with reference to exercise of power under Section 151 of the Code.....

The dictum of the Hon’ble Apex Court as above clearly recognizes the existence of the jurisdiction of the Court to do



things, which is required in the interest of justice, even after the matter has been fixed for judgment. The learned Court below has the jurisdiction to accept the document (judgment passed in the criminal case) as evidence even at the late stage after the conclusion of the arguments. It, therefore, cannot be said that the learned Court below has acted without jurisdiction. Even otherwise also it does not appear that there is any sound basis for interfering in the discretion exercised by the Court and that too when the existence of the said judgment has not been denied by the defendants. This Court thus is not inclined to exercise its jurisdiction under Article-227 of the Constitution to interdict the impugned order.

Accordingly, this application is dismissed.

(V. Nath, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.06.2017
Transmission Date	NA

