

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1256 of 2017

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Rinki @ Rinki Singh, W/o Harsh Bardhan Singh, D/o- Chandra Shekhar Singh,
Resident of Mohalla- Bahadurpur, P.S.- Bahadurpur, District- Patna.

.... (Opposite Party)-Petitioner/s

Versus

Harsh Bardhan Singh, S/o Anirudh Prasad Singh, resident of Village- Basti, P.S.-
Harnaut, District- Nalanda.

.... (Petitioner)-Respondent/s

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Appearance :

For the Appellant/s : Mr. Neeraj Kumar

For the Respondent/s : Mr. Birju Prasad

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 04-10-2017

The present application has been filed under Article 227 of the Constitution of India. The petitioner is aggrieved by an order, dated 06.05.2017, passed by the learned Principal Judge, Family Court, Nalanda at Biharsharif, in Matrimonial (Divorce) Case No. 303 of 2015, whereby, he has allowed a petition, dated 06.05.2017, filed by the respondent for DNA test of the son of the petitioner.

2. From the impugned order, I find that learned court



below has recorded that learned counsel for the petitioner had agreed to such request made on behalf of the respondent for DNA test and, accordingly, the said order has been passed. The petitioner is the wife of the respondent. The respondent has filed the said Matrimonial (Divorce) Case No. 303 of 2015 seeking decree of divorce, on the ground of desertion and cruelty.

3. Learned counsel for the petitioner has submitted that the impugned order has been passed mechanically without considering the spirit of Section 112 of the Evidence Act, 1872 and law laid down by the Supreme Court in case of ***Goutam Kundu Vs. State of West Bengal & Anr.***, reported in ***(1993) 3 SCC 418***. He also submits that the court below has wrongly recorded in the impugned order that learned counsel for the petitioner had agreed to the proposal for DNA test. He further submits that the petitioner has filed an application seeking recall of the said order, on the ground that consent of learned counsel for the petitioner for such test has wrongly been recorded in the order.

4. Considering the submission advanced on behalf of the petitioner that a petition before the court below is pending for recall of the impugned order, dated 06.05.2017, I dispose of this application with an observation that the court below, before compelling the parties to go for the said DNA test, must dispose of



the said application for recall. In any case, the said application must be disposed of within a period of two months from the date of receipt/production of a copy of this order.

5. The application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10/10/2017
Transmission Date	N/A

