

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.60018 of 2017

In
Criminal Miscellaneous No.801 of 2011

Arising Out of PS. Case No.- Year- Thana- District- Bhojpur

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1. Vishal Kumar Pandey, S/o Bishwanath Pandey, R/o Mohalla- Anaith Ara Nimtal, P.S.- Nawada, District- Bhojpur.
 2. Bishwanath Pandey, S/o Bindeshwari pandey @ Manoj Pandey,
 3. Vijay Devi W/o Bishwanath Pandey,
 4. Radhvi Devi @ Gudi D/o Bishwanath Pandey,
 5. Ragni Devi D/o Satrugan Tiwari,
 6. Satyendra Kumar Tiwari S/o Satrugan Tiwari, All the R/o Village- Anaeith Ara Nimtal, P.S.- Nawada, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Mamta Devi W/o Vishal Kumar Pandey, R/o Mohalla- Anaith Ara Nimtal, P.S.- Nawada, District- Bhojpur at present Residing at House of Santosh Kumar Tiwari, Saurabh Press, Mohalla- Khalashi, P.S.- Buxar Town, District- Buxar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajiv Ranjan
For the Opposite Party/s : Mr. SRI NIRMAL KUMAR SINHA

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

9 14-03-2018 This application has been filed for restoration of Cr. Misc. No. 801 of 2011, which was dismissed vide order dated 01.11.2017 for non-compliance of the order dated 11.09.2017.

The aforesaid Cr. Misc. No. 801 of 2011 was filed before this Court on 06.01.2011. On 27th January, 2012, the matter was heard at length and notice was issued to the opposite party no. 2. It was further directed that in the meantime no coercive steps will be taken against the petitioner. Opposite party no. 2 entered appearance by filing Vakalatnama. Thereafter, vide order dated



05.10.2012, with the consent of the parties, the matter was sent to the Mediation Centre of the Patna High Court and in the meantime further proceedings in Complaint Case No. 524 of 2009, Tr. No. 1622 of 2010 was directed to remain stayed. Mediation Report was received in this case mentioning that the dispute between the parties has been resolved. Thereafter, on the request of the learned counsel for the petitioners, the matter was adjourned on several occasions i.e. on 22.04.2013, 02.05.2013, 08.05.2013, 19.06.2013, 02.07.2013 and 22.07.2013. On 31.07.2013, none appeared on behalf of the petitioners to press the application, though the learned counsel appearing for the opposite party no.2 was present. As such, the matter was dismissed for non-prosecution.

Thereafter, after about two months Cr. Misc. No. 43531 of 2013 was filed before this Court on 03.10.2013 for restoration of the aforesaid Cr. Misc. No. 801 of 2011. In view of the submissions advanced and the statements made therein, the case was ordered to be restored to its original file vide order dated 04.10.2013.

After restoration, Cr. Misc. No. 801 of 2011 was taken up by the Bench, but since despite repeated calls, none appeared for the petitioners, the case was again dismissed for want of



prosecution vide order dated 23.10.2013.

Thereafter, after about four months, Cr. Misc. No. 12395 of 2014 was filed before this Court for restoration of the aforesaid Cr. Misc. No. 801 of 2011. Vide order dated 05.07.2017, the case was again directed to be restored to its original file.

The matter was thereafter listed before this Bench and on the request of the learned counsel for the petitioner, the matter was adjourned on several occasions i.e. 22.08.2017, 11.09.2017, 09.10.2017 and 18.10.2017. On 01.11.2017, when the matter was taken up, again a request was made on behalf of the petitioners for further adjournment of the matter. This Court declining the prayer, dismissed the matter for non-compliance.

Now present restoration application i.e. Cr. Misc. No. 60018 of 2017, has been filed for restoration of the aforesaid Cr. Misc. No. 801 of 2011.

It is relevant to mention here that the aforesaid Cr. Misc. No. 801 of 2011 was filed before this Court in the year 2011 and we are, now, in the year 2018. For long seven years, this matter has remained pending in this Court on account of the dilly-dally attitude of the petitioners. From the manner in which this case is being pursued, it seems that petitioners do not want to pursue the matter for its adjudication. On one ground or the



other, they are trying to keep the matter pending in this Court.

In view of the discussions, as made above, this Court is not inclined to allow the present restoration application. However, considering the request made on behalf of the petitioners for granting one last indulgence as also the grounds mentioned in this application, prayer for restoration is allowed with cost.

Let Cr. Misc. No. 801 of 2011 be restored to its original file subject to deposit of cost of Rs. 5,000/- (Five thousand) in the Patna High Legal Services Committee and filing receipt showing deposit thereof before the Registry of this Court.

The present restoration application, accordingly, stands disposed of.

(Arvind Srivastava, J)

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