

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1382 of 2017**

**In
MA 46 of 2017**

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Sanjeev Kumar Paul, son of Late Robin Gregory, resident of Mira Road,
P.S. Mira Road, District- Thane (Maharashtra)

.... Petitioner

Versus

Prita Thakur, daughter of Albert Thakur, resident of Mohalla Chakhani
Church, P.S. Rajwatiya, Dist.- West Champaran

.... Respondent

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Appearance :

For the Appellant/s : Mr. Vijay Anand

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

7 16-05-2018 Heard Sri N.K. Agarwal learned Senior counsel for

the petitioner and Sri. D.K. Singh, learned counsel for the

respondent.

By the impugned order, the petition of the petitioner
for custody of the child has been dismissed.

Sri. N.K. Agarwal leaned Senior counsel for the
petitioner submits that without calling for the child for an
interview, the petition of the petitioner for custody of the child has
been rejected by the learned Principal Judge, Family Court, West
Champaran, Bettiah and at least, visiting rights should be given to
the petitioner, so that the petitioner may meet with his son at a
particular place and interact with him, at least thrice in a year.

Mr. D. K. Sinha, learned counsel appearing on behalf
of the respondent submitted that the petitioner filed Divorce case



making all sorts of clumsy allegations and character assassination. The case has already been compromised and both the parties have agreed to settle their criminal as well as divorce cases and they have also agreed to mutually divorce with each other. It is further submitted that the mother is a natural guardian and she is under love and affection of her child. The petitioner is not entitled to get custody of the child.

From perusal of records, I find that the paramount consideration for the custody of the child or for visiting rights of the father should be decided, taking into consideration the welfare and upliftment of the child. The Court below has not even interviewed with the child and did not try to know the opinion of the child, therefore, in this view of the fact, I find that the order of the learned Principal Judge, Family Court is bad and illegal.

Thus, the order dated 25.10.2016 is set aside and the matter is remitted to the court below to decide afresh the question of the custody of the child or visiting rights of the petitioner with his own son, at least thrice in a year, in accordance with law.

Accordingly, this Civil Miscellaneous petition is allowed with the aforesaid observation.

(Prabhat Kumar Jha, J)

Amit/-

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