

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1381 of 2022

Arising Out of PS. Case No.-15 Year-2018 Thana- DOMESTIC VIOLENACE District- Patna

RASHMI KUMARI D/O DR. J.P. MANDAL, W/O NEERAJ KUMAR AT
PRESENT R/O HANUMAN NAGAR, VIVEK VIHAR COLONY, ROAD
NO. 4, P.S.- PATRAKAR NAGAR, DISTT.,- PATNA AND R/O M.I.G. G-
351, KANKARBAGH, P.S. KANKARBAGH, DISTRICT- PATNA

... Petitioner

Versus

1. THE STATE OF BIHAR THROUGH THE LAW SECRETARY, LAW
DEPARTMENT, GOVT. OF BIHAR
2. THE LAW SECRETARY, LAW DEPARTMENT, GOVT. OF BIHAR
3. THE REGISTRAR, CIVIL COURT, PATNA SADAR, DISTT.- PATNA
4. NEERAJ KUMAR S/O FAKIRA CHAUDHARY, R/O MIG 351,
KANKARBAGH, P.S. KANKARBAGH, DIST. PATNA ... Respondents

Appearance :

For the Petitioner/s : Mr.Ajit Kumar, Adv.

For the Respondent/s : Mr.Rajesh Kumar, AC to GP III

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

2 11-04-2023

Heard learned counsel for the petitioner and the State.

Counsel for the petitioner submits that the present writ petition has been filed directing the db for deciding the case arising out of D.V. Case No. 15 of 2018 and the Criminal Appeal Case No. 12 of 2020 in a time bound manner which has been filed against the petitioner on 30.11.2019 passed in D.V. Case No. 15 of 2018. Counsel submits that the petitioner is the innocent wife who had moved in Cr. Writ Application No. 1022 of 2017, i.e., writ of habeas corpus for production of three months child and to grant custody to her which is arising from Kankerbagh P.S. Case No. 407 of 2017. Counsel for the petitioner further submits that this case may be heard under the power of superintendence of this Court under Article 227 of the Constitution so that the poor petitioner may get relief in her D.V. Case No. 15 of 2018.



Counsel for the State submits that he is not ready to assist this Court.

Upon perusal of the record, it transpires to this Court that matter as represented has not fully understood by the counsel for the petitioner. The factual position in this case is as follows:

The wife has filed a D.V. Case No. 15 of 2018 in which the husband/respondent no. 4 appeared, filed reply and also filed an application under Section 340 of the Criminal Procedure Code that the wife has interfered in the administration of justice, therefore, proceeding under Section 195 of the Criminal Procedure Code may be initiated. The said petition under Section 340 of the Criminal Procedure Code, 1973, filed by the respondent no. 4 has been rejected by the Court below hearing the D.V. Case No. 15 of 2018. The husband/respondent no. 4, thereafter, preferred a criminal appeal against the decision of rejection of his application under Section 340 of the Criminal Procedure Code before the Sessions Court under Section 341 of the Criminal Procedure Code under heading Criminal Appeal. In the said criminal appeal, which he has filed under Section 341 of the Criminal Procedure Code, he has requested to the appellate Court to call for the record of D.V. Case No. 15 of 2018, as such, the record of domestic violence case has been called for and both, appeal and domestic violence case, are pending before the appellate level



either on one pretext or other, the matter is pending since long.

By virtue of filing the writ petition the petitioner is not seeking any relief on the merit of the case. She merely seeks a direction from this Court to the appellate Court to decide the criminal appeal within a fixed span of time and after deciding this appeal return the record of domestic violence case to its original Court.

In this view of the matter, this Court is not passing any order on merit, but, hereby directing to the appellate Court, District and Sessions Judge, Patna, to first of all ascertain that before which Court, Criminal Appeal Case No. 15 of 2020 is pending and then communicate the order passed by this Court to the said Court that the said criminal appeal be decided within a period of 60 days from the date of production of a copy of this order and upon decision return back the the record of D.V. Case No. 15 of 2018 to its original Court.

With this direction, this writ petition is hereby **allowed**.

(Dr. Anshuman, J)

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