

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.890 of 2017

Arising Out of PS. Case No.- Year-1111 Thana- District-

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1. Satish Kumar @ Munna and Ors Son of Late Gauri Prasad.
 2. Sanita Devi w/o Satish Kumar.
 3. Satyajit Kumar @ Sonu Son of Sri Satish Kumar, All are R/o Nav Durga Complex, Thana road, P.S.- Town, District- Vaishli.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Vandana Devi W/o Pramod Kumar Gupta, At present Residing in the house of Prem Prakash Gupta, Pethia Bazar, P.S.- Phulwari Sharif, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vinay Ranjan, Adv.
For the Respondent/s : Mr. Sanjay Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 28-04-2023 Heard learned counsel for the petitioner, learned counsel for the O.P. and learned counsel for the State.

The present Cr. Revision application is being filed against the order dated 17.06.2017, passed in Cr. Appeal No. 78 of 2016 by Additional Sessions Judge-III, Patna, whereby, he has declared to interfere in the order dated 11.05.2016, passed in D.V. Case No. 35 of 2011 by J.M., Patna by which the learned Court has disposed off the petition filed under Section 25 of the D.V. Act, holding that the petition of the petitioners as not maintainable.

Counsel for the petitioner submits that in the

judgment order dated 17.06.2017, in Cr. Appeal No. 78 of 2016, this Court has not considered the case of the petitioner as Section 25 of the D.V. Act has categorically states that a protection order made under Section 18 of the D.V. Act shall be imposed till aggrieved person applies for discharge.

Counsel for the petitioner submits that in Section 25(2) of the D.V. Act, it has been stated that If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

Counsel for the petitioner submits that rejection of the application under Section 25 of the D.V. Act is basically an illegality, which is necessary to be corrected.

Counsel for the O.P. No.2 submits that the petitioner was party to the D.V. Act and the petitioner and other parties against whom the order of D.V. was passed. They have acted upon towards the compliance of the said order but instead of compliance, he started filing appeal and application. He submits that till date, the order passed by D.V. Act could not have acted

upon and the petitioner is only playing the tricks.

Counsel for the State submits that from the ordersheet it transpires that the petitioner has moved before this Hon'ble Court and this Hon'ble Court has specifically directed certain instructions. Therefore, this Cr. Revision should be rejected. As he has not complied the order passed by this Hon'ble Court and started litigation afresh on raising different legal points.

Upon hearing the parties and going through the pleadings, this Court is of the view that it is very clear that the Magistrate on receipt of application from the aggrieved person or by the respondent may pass an order about alteration, modification or revocation of the earlier order but there is condition precedent involved there and this condition precedent is to the satisfaction of the Magistrate.

Here in the present case, it transpires to this Court that satisfaction has not arisen to the Magistrate, as well as, to the Appellate Court, only due to the reason that order passed by the Hon'ble Court in Cr. Misc. No. 156 of 201, has not been complied yet.

In this view of the matter, this petition is allowed with a direction to the Court to hear on application passed by petitioner under Section 25 of the Act but only after the

compliance of the Hon'ble Court's order passed in Cr. Misc. No. 156 of 2015, in which the Hon'ble Court has directed the petitioner to pay Rs., 50,000/- per month to O.P. No.2.

(Dr. Anshuman, J.)

Ashishsingh/-

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