

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.541 OF 2017
(Arising out of S.L.P.(Crl.) No. 5866 of 2016)

NARAYAN PRASAD

Appellant(s)

Versus

STATE OF BIHAR AND OTHERS

Respondent(s)

O R D E R

1. Leave granted.
2. We have heard learned counsel for the parties.
3. This appeal by special leave is directed against the judgment and order dated 18.05.2016 passed by the High Court of Judicature at Patna in Criminal Miscellaneous No. 47160 of 2015 whereby the High Court allowed the modification application, filed by the respondent against the order dated 25.06.2015 in Criminal revision No. 705 of 2014 passed by the High Court, and passed a new order reversing the earlier order.
4. A brief factual background would be necessary to decide

the short question of law which has arisen in this case at hand. Petitioner's marriage, to respondent no. 2, was solemnized on 12.12.1993 and the same was annulled, by Addl. District Judge, Bhojpur at Ara in Matrimonial (Divorce) Case No. 11/95, vide order dated 17.09.1998. Further respondent no.2 (wife) filed a petition before the Principal Judge, Family Court, Ara seeking maintenance from the petitioner. Vide order dated 01.05.2014, Principal Judge, Family Court, Ara in Misc. Case No. 41/12, directed the petitioner to pay the maintenance, of Rs. 2,000/- and 1,000/-, to respondent no. 2 and 3 respectively. Furthermore petitioner (husband) sought revision of the above order before the High Court in Criminal Revision No. 705 of 2014. High Court vide order dated 25.06.2015 allowed revision petition and set aside the order of the trial Court which had granted maintenance. Subsequently, respondent no. 2 (wife) and respondent no. 3 filed a modification application before the High Court challenging the revision order. Again the High Court vide order dated 18.05.2016, allowed the modification application and resurrected the order of the trial Court granting maintenance.

5. In this background we are called upon to decide on the legality of the order of the High Court dated 18.05.2016 passed on an application made under Section 482 CrPC.
6. In order to decide the controversy at hand, it would be useful to reproduce Sections 362 and 482 of The Code of Criminal Procedure, 1973 [hereinafter 'CrPC' for brevity]-

362. Court not to alter judgment.-Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.

482. Saving of inherent powers of High Court.-Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

7. Plain reading of these Sections indicate that the prohibition under the Section 362 of CrPC is absolute; after the judgment is signed even the High Court in exercise of its inherent power under Section 482 of CrPC has no authority or jurisdiction to alter/review the same. The inherent power under Section 482 of CrPC was purported to avoid the abuse of the process of the Court

and to secure ends of justice. Such power cannot be exercised to do something which is expressly barred under the Code.

8. If any consideration of the facts by way of review is not permissible under the Code and is expressly barred, it is not for the Court to exercise its inherent power to reconsider the matter.

9. Taking into consideration the legal position, we set aside the impugned order passed by the High Court.

10. The appeal is, accordingly, allowed.

.....J.
(N.V. RAMANA)

.....J.
(PRAFULLA C. PANT)

New Delhi,
March 09, 2017

ITEM NO.7

COURT NO.11

SECTION IIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 5866/2016

(Arising out of impugned final judgment and order dated 18/05/2016
in CRLM No. 47160/2015 passed by the High Court Of Patna)

NARAYAN PRASAD

Petitioner(s)

VERSUS

STATE OF BIHAR AND ORS,

Respondent(s)

(with appln. (s) for exemption from filing O.T. and interim relief
and office report)

Date : 09/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s)

Mr. Pratap Shanker, Adv.

Ms. A. Shivani, Adv.

Mr. Swetank Shantanu, Adv.

For Respondent(s)

Mr. Chandan Kumar, Adv.

Mr. Shivam Singh, Adv.

For Mr. Gopal Singh, Adv.

Mr. Krishna Kant Dubey, Adv.

Ms. Shuchi Singh, Adv.

Mr. Sanjay Kr. Dubey, Adv.

Mr. Devendra Kr. Shukla, Adv.

Mr. L.K. Pandey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

[SUKHBIR PAUL KAUR]

A.R.-CUM-P.S.

(Signed order is placed on the file)

[S.S.R. KRISHNA]

ASSISTANT REGISTRAR