

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17491 of 2015

Arising Out of PS.Case No. -48 Year- 2009 Thana -ISHOPUR District- BHAGALPUR

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1. Chandan Kumar Thakur Son of Krishnanand Thakur, Resident of
Village - Gokul Mathura, P.S. - Isipur, Barahat, District - Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kr. Singh, No1. Advocate.
Mr. Bharat Bhushan

For the Opposite Party/s : Mr. Ram Bachan Singh(App)

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH**
ORAL ORDER

4 14-05-2015

Heard learned counsel for the petitioner and

learned counsel for the State.

2. The present application under section 482 of
the Code of Criminal Procedure has been filed for quashing the
order dated 03.09.2014 passed by the learned Additional District
& Sessions Judge IV, Bhagalpur in connection with Sessions Trial
No. 1035 of 2009 arising out of Barahat P.S. Case No. 48 of 2009
by which the application dated 10.07.2013 filed by the petitioner
for examining the defence witnesses has been rejected.

3. It would appear from the record that in the
present case first information report was registered on 07.08.2009
for the offences punishable under section 302 read with section 34



of the Indian Penal Code against one Prem Yadav and another unknown accused. After completion of investigation the police submitted charge sheet in the case and on the basis of material collected in course of investigation. The petitioner, though not named in the F.I.R, was sent up for trial. On 17.11.2009 charge was framed against him for the offence punishable under section 302 of the Indian Penal Code. The prosecution case was closed after examination of eight witnesses on 15.12.2012. The statement of petitioner was recorded under section 313 of the Code of Criminal Procedure on 27.02.2012 and thereafter the matter was fixed for adducing evidence on behalf of defence.

4. The case was adjourned to different dates for producing defence witnesses but the defence could examine only two witnesses between 27.02.2012 to 16.05.2013. It would further appear that no witness was produced by the defence on 13.08.2012, 15.09.2012, 12.10.2012 05.01.2013, 19.01.2013 07.02.2013. 26.02.2013, 23.03.2013, 23.04.2013 and 16.05.2013. Ultimately, the trial court fixed the matter for argument. Vide order dated 16.05.2013.

5. However, on 10.07.2013 a petition was filed on behalf of the petitioner seeking leave to adduce some more defence witness. Though, the petition dated 10.07 2013 has not

been brought on record but learned counsel for petitioner has produced a copy of the same in course of the argument. It is taken on record. In the aforesaid application nothing has been stated as to why the examination of the 10 witnesses proposed to be examined on behalf of defence is necessary.

6. After hearing respective counsel for the parties, the court below has rejected the application dated 10.07.2013 vide order dated 03.09.2014.

7. Learned counsel for the petitioner has submitted that the impugned order dated 03.09.2014 is bad in law as the court below has not assigned any reason for rejecting the application filed on behalf of the petitioner.

8. I have perused the impugned order dated 03.09.2014. I find that despite several dates having been given to the petitioner for adducing evidence, no sincere effort was taken by the petitioner in this regard. The court below has recorded in its order that the aforementioned application dated 10.07.2013 is without any merit and the same has been filed in order to delay the trial.

9. In my view, in the absence of any justifiable reason given by the petitioner in the application dated 10.07.2013, as to why examination of the proposed witnesses was necessary

and looking at the conduct of the petitioner, the court below has rightly rejected the application. Apparently the petitioner is trying to delay the trial. He has been given almost one year and three months for adducing evidence but in the period of 15 months he could produce only two witnesses.

10. In the facts and circumstances of the case, I find no error in the impugned order passed by the court below. The application is dismissed.

(Ashwani Kumar Singh, J)

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