

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43231 of 2012

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Mahendra Prasad @ Mahendra Yadav S/O Ram Naresh Yadav R/O Village
- Rushtam Ganj, P.S. Naubatpur, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Umesh Yadav @ Toni Yadav S/O Gayanand Yadav R/O Village -
Rushtam Ganj, P.S. Naubatpur, District - Patna
3. Ramesh Yadav S/O Gayanand Yadav R/O Village - Rushtam Ganj, P.S.
Naubatpur, District - Patna
4. Dinesh Yadav S/O Gayanand Yadav R/O Village - Rushtam Ganj, P.S.
Naubatpur, District - Patna
5. Kunal Paswan S/O Shiv Vahan Paswan R/O Village - Chosi, P.S.
Naubatpur, Distt. - Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoranjan Kumar, Advocate

For the Opposite Party No.1 : Mr. Asha Kumari, APP

For the Opposite Party No.2 : Mr. Shambhu Sharan Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 23-04-2015

Heard the parties.

The petitioner is aggrieved by the order dated 18.08.2012 passed in Sessions Trial No. 1037 of 2006 by learned Additional Sessions Judge 2nd, Danapur whereby the petition filed on behalf of the petitioner in terms of Section 311 of the Code of Criminal Procedure for summoning the Investigating Officer has been rejected.

The criminal case was registered for offences under Section 302/34 of the Indian Penal Code and under Section 27 of the Arms Act in the year 2004 against opposite party nos. 2 to 5, besides others. On close of investigation, chargesheet was submitted against the petitioners and accordingly cognizance was taken by the learned Magistrate. The case was committed to the court of sessions in the year 2006 itself giving rise to Sessions

Trial No. 1037 of 2006. The aforesaid sessions trial remained pending for almost six years during which other prosecution witnesses were examined, but Investigating Officer was not produced. Finally the prosecution evidence was also closed on 17.03.2012. Thereafter defence evidence was closed on 30.03.2012. Statements of the accused persons were recorded under Section 313 of the Code of Criminal Procedure. Till that date, no grievance was raised by the prosecution or the present petitioner with respect to non-examination of the Investigating Officer. When the arguments commenced in the aforesaid sessions case and the case was likely to be fixed for judgment, then a petition was filed by the petitioner on 14.05.2012 for summoning the Investigating Officer as a court witness in terms of Section 311 of the Code of Criminal Procedure. On consideration of the entire materials, the learned trial court has rejected the prayer of the petitioner by the impugned order dated 18.08.2012.

The trial court has given cogent and sufficient reasons for rejection of the prayer made on behalf of the petitioner. It is well settled that the witnesses cannot be permitted to be examined at belated stage only with a view to fill up the lacunae in the prosecution case.

In above view of the matter, this Court does not find any good ground to interfere with the impugned order dated 18.08.2012 passed by the learned trial court. The present application is completely misconceived and is, accordingly, dismissed.

(Birendra Prasad Verma, J)

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