

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44871 of 2012

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Samsad Ali @ Chhotak & Ors

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Singh

For the Opposite Party/s : Mr. J.Upadhyay(App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 23-04-2015

Heard learned counsel for the petitioners.

This application has been filed under Section 482 Cr.P.C. for quashing the order dated 14.09.2012 passed by the learned Ad-hoc A.D.J.-III, Buxar in Sessions Trial No.64 of 2010 arising out of Nawanagar P.S. Case No.25 of 2009 whereby the court below rejected the application filed by the petitioners under section 311 Cr.P.C.

The learned counsel for the petitioners submitted that cognizance has been taken under Section 307 I.P.C. and both the parties have compromised the matter, therefore, only to record the compromise the petitioners filed application for recall of all the prosecution witnesses but the court below has wrongly dismissed the same application.

Perused the order passed by the court below. It appears that the prosecution witnesses have already been examined and

cross-examined at length. Even I.O. has been examined. Now, therefore, only to record compromise, there is no question of recall of all prosecution witnesses arises. It is settled principle of law that Section 311 Cr.P.C. confers wide jurisdiction on the Court but under this section the Court exercises discretionary jurisdiction on the facts of each case with a view to prevent miscarriage of justice. In the present case, therefore, only to fill up the lacuna one party cannot be allowed to insist upon the court to exercise its discretionary jurisdiction. Moreover, when the court below has refused to exercise discretionary jurisdiction, this Court should not interfere with in exercise of inherent jurisdiction under Section 482 Cr.P.C.

Accordingly, this criminal miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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