

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50363 of 2012

Arising Out of P.S.Case No. -06 Year- 2001 Thana –Hasua District- Nawada

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1. Mishri Prasad Singh, S/O Late Ram Prasad Singh
 2. Kapildeo Prasad, S/O Late Ram Prasad Singh
 3. Lakhan Prasad, S/O Late Ram Prasad Singh
 4. Ramchandra Prasad, S/O Late Ram Prasad Singh
 5. Bajrangi Prasad, S/O Late Kishori Ram, all are residents of Village-Orro, P.S- Hasua, District- Nawada

.... **Petitioners**

Versus

1. The State of Bihar
2. Saraswati Devi, W/O Late Balbhadra Ram, resident of village-Orro, P.S- Hasua, District- Nawada.

.... **Opposite Parties**

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Appearance :

For the Petitioner/s : Mr. Zaki Haider, Adv.
For the Opposite Party/s : Mr. Ajay Kumar-2, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 30-04-2015

Heard learned counsel for the petitioners and the learned
A.P.P. for the State.

The petitioners seek quashing of the order dated
07.08.2012 passed by the learned Additional Sessions Judge-II,
Nawada in Criminal Revision No. 19 of 2006 by which, he has
rejected the prayer of the petitioners, wherein the Executive

Magistrate, Nawada in Case No. 908 of 2001 has not included the documents filed by the petitioners before him.

The learned Additional Sessions Judge-II, Nawada has come to a finding that although some public documents were filed by the petitioners before the Executive Magistrate, Nawada but the same were not marked as exhibits and, as such, the said documents cannot be taken as evidence at revisional stage. As per Section 294 of the Code of Criminal Procedure where any document is filed before any court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused shall be called upon to admit or deny the genuineness of each such documents. The petitioners claim to have filed those documents before the Executive Magistrate, Nawada but have taken the plea that the same does not appear in the ordersheet and were not marked as exhibits before the Executive Magistrate, Nawada.

In such view of the matter, this application is allowed. The order dated 07.08.2012 is quashed and the matter is remanded to the Executive Magistrate, Nawada. The petitioners will produce all such documents before the Executive Magistrate, Nawada in Case No. 908 of 2001, which will be considered by the Executive Magistrate, Nawada in accordance with law.

The application is, accordingly, allowed.

(**Nilu Agrawal, J.**)

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