

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42867 of 2012

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Jagmohan Ram, S/o Late Ram Sharan Ram, Resident of Village- Dhandhwa
Tole- Ismailpur, P.S.- Aurangabad (M), District- Aurangabad

.... Petitioner

Versus

The State Of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar Singh, Adv.

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

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 21-05-2015

The petitioner figured as one of the accused in Sessions Trial No.67 of 2010, on the file of Additional Sessions Judge-II, Aurangabad. That case, in turn, arose out of Aurangabad (M) P.S. Case No.97/09. The allegation therein is that 9 accused named therein have attacked Arjun Ram and immediately he was taken to Bose Clinic at Dehri for treatment and that while undergoing treatment, the deceased died at 5:00 a.m. on 1.6.2009. The trial of the case is in progress.

On behalf of the defence, a petition was filed with a prayer to summon Dr. R. K. Singh from Bose Clinic, Dehri to know as to whether the deceased was treated in that hospital. The petition was opposed by the prosecution by stating that no one from the hospital at Dehri was named or examined in the course of

investigation. The trial court dismissed the petition on 21.9.2010.

Though this petition was filed in the year 2012, it is listed before this Court only today. It is not known as to whether the case is still pending.

A perusal of the complaint, on the basis of which the F.I.R. was registered, discloses that Arjun Ram was seriously injured in the attack and he was taken to Bose Clinic at Dehri for treatment on a cot. The petitioners demonstrate that the deceased did not undergo any treatment at all and, accordingly, they want the doctor to be examined from the Bose Clinic. The only basis on which the said petition came to be rejected by the trial court was that no doctor from Dehri was named in the police diary, much less any one was examined. That hardly constitutes any basis for rejecting the application. Once an allegation was made in the F.I.R. and the prosecution did not examine the witness, it is always competent for the defence to elicit necessary information.

Therefore, the petition is allowed.

It is directed that in case the trial is still pending, the trial court shall issue summons to the

concerned doctor from Bose Clinic at Dehri and record his evidence.

(L. Narasimha Reddy,CJ)

K.C.jha/-

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