

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26776 of 2012

Arising Out of PS.Case No. -41 Year- 1991 Thana -null District- GOPALGANJ

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1. Chhathu Rajbhar S/O Ram Bachan Rajbhar R/O Village- Bairiya, P.S- Kateya,
District- Gopalganj (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ram Bhajan Yadav S/O Bhurigurashan Yadav R/O Vill- Majhauriya, P.S-
Bijaipur, Distt- Gopalganj(Bihar)
3. Rajendra Yadav S/O Gajadhjar Yadav.
4. Subhash Yadav son of Mahesh Yadav.
5. Awadhesh Gupta son of Kishun Gupta.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-03-2015

It has been submitted by the counsel appearing on behalf
of the Opposite Party No. 4 that he has died and therefore the
application as against him has become infructuous.

It is dismissed as such.

The Petitioner who is informant seeks quashing of the
order dated 11.01.2012 passed by the learned 1st Additional Sessions
Judge, Gopalganj in Sessions Trial No. 308 of 2005 arising out of
Bijaipur P.S. Case No. 41 of 1991 by which he has discharged the
private Opposite Parties.

The background of the fact is that the private Opposite



Parties were named in the first information report as one of the abductors of the brother of the informant. However, during investigation final report was submitted in their regard. During trial the informant once again named the Opposite Parties on account of which they were summoned under Section 319 Cr. P.C. They then appeared and filed an application under Section 227 for their discharge, which was allowed.

Counsel for the Petitioner-informant submits that once the Trial Court had found sufficient material for summoning private opposite parties, there were no question of discharging them on the very same facts.

On the other hand, counsel appearing for the private Opposite Parties submitted that since such an opportunity is afforded to them in law even after they were summoned under Section 319 Cr. P.C, the Trial Court had not committed any error in discharging them.

However, considering that the private opposite parties were named in the first information report with definite allegation of having participated in the abduction of the brother of petitioner, the application stands allowed. The order dated 11.01.2012 passed by the learned 1st Additional Sessions Judge, Gopalganj in Sessions Trial No. 308 of 2005 arising out of Bijaipur P.S. Case No. 41 of 1991, is hereby set aside. The private Opposite Parties are directed to appear

within 15 days of receipt of the order before the Trial Court and the trial Court is directed to conclude the trial expeditiously without granting unnecessary time to any party .

The Trial Court is also directed to send a list of remaining witnesses/ the witnesses fixing specific dates for production of the witnesses along with a copy of this order, to the Superintendent of Police, Gopalganj and the Superintendent of police, Gopalganj is directed to ensure production of the witnesses on the date so fixed by the Trial Court so that there is no further delay in trial.

(Anjana Prakash, J)

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