

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 41167 of 2011

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1. Prem Lata Devi W/o Shyam Narayan Prasad Resident of
Kasera Toli, Daudnagar, P.S.- Daudnagar, Distt.-
Aurangabad.

2. Shakuntla Devi D/o Shyam Narayan Prasad Resident of
Kasera Toli, Daudnagar, P.S.- Daudnagar, Distt.-
Aurangabad. Petitioner/s

Versus

1. The State of Bihar.

2. Sanjay Prasad S/o Late Ram Chandra Prasad R/o Kasera
Toli Ward No.12, Daudnagar, P.S.- Daudnagar, District-
Aurangabad. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Prasad Singh, Adv.

For the Opposite Party/s : Mr. Gauri Shankar (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

08. 02.02.2015

The Petitioners seek quashing of the order dated

11.08.2011 passed by the Sessions Judge, Aurangabad in
Cr. Rev. No. 44 of 2010 by which it has set aside the
order dated 28.01.2010 passed by the Judicial
Magistrate, 1st Class, Daudnagar, Aurangabad by which
he has rejected an application under 319 Cr.P.C in G.R.
No. 606 of 2006/Tr. No. 517 of 2010.

The case of the Informant was that on the date
of occurrence the accused persons variously armed came
to her house and assaulted her and committed theft of
household properties. During investigation, the complicity
of the Petitioners who are ladies was found false and,
hence, final report was submitted and accepted by the
Court below. Subsequently, when some material
transpired against them during trial an application under

Section 319 Cr.P.C. was filed by the Informant which was rejected by the Trial Court. However, as against the same the Informant filed an application before the Revisional Court which set aside the order refusing to summon the Petitioners as mentioned above and directed them face trial.

In my opinion, it was the Trial Court which was the Judge who could consider the evidence on record and as to whether in the facts of the case the Petitioners be summoned under Section 319 Cr.P.C. Hence, I am of the view that the revisional order dated 11.08.2011 passed by the Sessions Judge, Aurangabad deserves to be set aside.

The application is, thus, allowed and the order dated 11.08.2011 passed by the Sessions Judge, Aurangabad in Cr. Rev. No. 44 of 2010 by which it has set aside the order dated 28.01.2010 passed by the Judicial Magistrate, 1st Class, Daudnagar, Aurangabad by which he had rejected an application under 319 Cr.P.C in G.R. No. 606 of 2006/Tr. No. 517 of 2010 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

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