

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21884 of 2015

Arising Out of PS.Case No. -104 Year- 2000 Thana -BEGUSARAI TOWN District- BEGUSARAI

1. Gopal Mahto Son of Late Baldeo Mahto resident of village - Bishanpur Bahore, P.S. Begusarai Town District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vivekanand Vivek

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

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 28-08-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The instant application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 07-04-2015 passed by the learned Additional Sessions Judge IV, Begusarai in Session Trial No. 76 of 2001 arising out of Begusarai Town P.S. Case no. 104 of 2000, whereby and whereunder the learned court below has rejected the application filed on behalf of the informant under Section 311 of the Code of Criminal Procedure for summoning the Investigating Officer and Medical Officer.

It would appear from the perusal of the impugned order that the case was initially filed as a complaint which was referred



to the police for investigation under Section 156(3) of the Code of Criminal Procedure pursuant to which an F.I.R. was registered under Sections 307, 325, 323, 447 read with 34 of the Indian Penal Code. After conclusion of investigation, charge-sheet has been submitted against accused 1 and thereafter cognizance was taken by the learned Magistrate and the case was committed to the court of Sessions for trial in the year 2001 itself. It would further be evident from the impugned order that the charges were framed on 3.12.2013 and thereafter the prosecution examined altogether six witnesses in this case and the last witness was examined on 18th January, 2008. Several adjournments were granted by the court below for appearance of the Doctor and the Investigating Officer of the case but due to their non-appearance, the trial court lastly adjourned the matter to be listed on 01.09.2014. Since the Doctor and Investigating Officer failed to appear on 01.09.2014 despite several adjournments, the trial court adjourned the case to 08.09.2014, giving the prosecution last chance to produce its witnesses. Even on 08.09.2014, the doctor and Investigating Officer failed to appear and thereafter the case was closed. However the prosecution filed an application under Section 311 of the Code of criminal procedure for summoning the Doctor and the Investigating Officer and again the court below passed an order

dated 09.10.2014 allowing the application filed under Section 311 of the Code of Criminal Procedure and gave the prosecution last chance to produce both the witnesses. The prosecution once again failed to produce the two witnesses on the dates fixed by the trial court and ultimately the prosecution case was closed on 10.02.2015. After closure of the prosecution case, the informant filed another application under Section 311 of the Code of Criminal Procedure for summoning the aforesaid two witnesses which was rejected by the impugned order dated 07.04.2015.

It would be evident from the record that sufficient opportunities have been given to the prosecution to produce the said witnesses but it failed to examine its witnesses for over a decade. The trial court was left with no option but to reject the application filed on behalf of the informant.

I do not find any error in the impugned order dated 07.04.2015 passed by the learned Additional Sessions Judge IV, Begusarai.

Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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