WEB COPY NOT OFFICIAL

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50398 of 2012

==========

1. Hem Kumar Choudhary S/O Baidyanath Choudhary R/O Vill-Bishanpur Bazar, P.S.-Kumarkhand, Distt-Madhepura

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ramesh Chaudhary
3. Naresh Choudhary

Both sons of Satya Nr. Choudhary

4. Jago Choudhary
5. Jai Nath Choudhary

Both sons of Thakur Choudhary

6. Mohan Choudhary son of Late Maheshwar Choudhary
7. Tuntun Choudhary son of Arvind Choudhary

2 to 7 resident of village- Bishanpur Bazar, P.S.- Kumarkhand, District-Madhepura

.... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr. Praveen Kumar Aggrawal, Advocate
For the Opposite Party/s : Mr. Pushpa Sinha(App)

==========

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

3 13-03-2015 The instant application has been filed for quashing the order dated 27.11.2012 passed by learned Adhoc Additional Sessions Judge No. 3, Madhepura in Sessions Trial No. 89 of 2010 whereby and whereunder prayer for examination of Dr. Kartik Prasad Singh as prosecution witness under Section 231 (i) and 311 of the Cr.P.C. dated 8.8.2012 has been rejected.

It has been submitted that the informant Hem Kumar Choudhary was examined by Dr. Kartik Prasad Singh of Madhepura District who had issued a medical certificate in this

case which is available on the case record, so examination of Dr. Kartik Prasad Singh is highly essential and he being the important witness ought to have been summoned in the interest of justice.

Learned APP duly assisted by the learned counsel representing opposite party no. 2 on the other hand submitted that the informant has been examined at Kumarkhand Primary Health Centre and after due investigation the Investigating Officer has named Dr. Arun Kumar Jha in the witness column of the chargehsheet who had examined the injured informant and Dr. Arun Kumar Jha has already been examined by the prosecution and now prosecution filed a certificate issued by Dr. Kartik Prasad Singh. There is no proof that the informant was examined by Dr. Kartik Prasad Singh. It has also been submitted that photo copy of certificate issued by Dr. Kartik Prasad Singh has been filed in the court of Chief Judicial Magistrate by the prosecution side and its original has been filed in the sessions trial on 28.9.2012. In photo copy the age of the informant has been shown as 25 years whereas in the original age has been shown as 35 years. So, it appears that the certificates have been created only with a purpose. Hence, the same has got no meaning and further that doctor has not been examined during investigation by the I. O. and he is not named in the chargesheet as a witness.

Having considered the submissions urged at the bar, going through the records and impugned order, it is manifest that Dr. Kartik Prasad Singh is not named as a witness in the chargesheet and he has not been examined during investigation. There is discrepancies in the photo stat copy and original and the prosecution has already examined Dr. Arun Kumar Jha who had examined the informant after the occurrence. It is apparent from the impugned order that there is no prescription of Dr. Kartik Prasad Singh that could show that the injured informant has been examined and treated by Dr. Kartik Prasad Singh and the certificate issued by Dr. Kartik Prasad Singh also does not bear the signature of injured informant for whom it has been issued, and as such, finding discrepancies in the photo stat copy and original, prayer of the prosecution has been rejected by the court below by holding that there is no essential of examination of Dr. K. P. Singh in this case.

This Court, being in agreement with the finding of the learned court below, finds no illegality in the impugned order. Accordingly, this application stands dismissed.

(Jitendra Mohan Sharma, J)

avin/-

U		T	