

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29287 of 2015

Arising Out of PS.Case No. -8 Year- 1995 Thana -BRAHMPURA District- MUZAFFARPUR

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1. Raj Mandal Roy S/o Late Jageshwar Rai
 2. Asharfi Roy S/o Late Jageshwar Rai All Resident of Village Ujhilpur, P.S. Rajopur, District East Champaran at Present residing at M.I.T. Colony, P.S. Brahmpura, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ram Chandra Pandit S/o Ram Pravesh Pandit Resident of Village Barka Sihanpura, P.S. Simari, District Buxar at present residing at M.I.T. Colony, P.S. Brahmpura, District Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukund Mohan Jha, Adv.

For the Opposite Party/s : Mr. Shyam Bihari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 18-09-2015

By way of filing the present application under Section 482 of the Code of Criminal Procedure, the petitioners challenge the order dated 06.04.2015 passed in Sessions Trial No.478 of 1996 arising out of Brahmpura P.S.Case No. 008 of 1995 by the learned Additional District & Sessions Judge VI, Muzaffarpur whereby the application filed on behalf of the petitioners for recalling P.W.6 Dr.S.K.Sarangi for further cross-examination has been rejected.

It would appear from the records that the case was instituted in 1995 and after taking cognizance it was committed to the court of Sessions in 1996. P.W.6 Dr. S.K.Sahani was examined on

20th July, 2000. The defence had cross-examined him on the same day and he was discharged. From the date of examination of P.W.6, fifteen years have elapsed. In between, several other witnesses have been examined on behalf of the prosecution. It would appear that at the fag end of the trial, the defence has filed the present application in order to delay the trial. From a perusal of the impugned order, it would appear that no new fact was brought to the notice of the court for further cross-examination of P.W.6. On query, the learned counsel for the petitioner has failed to explain as to why the petitioner intends to cross-examine P.W.6 further.

The power to summon the material witness or recall and re-examine any person already examined under section 311 of the Code of Criminal Procedure is to be exercised by the trial court if evidence of such person appears to be essential to the just decision of the case. Apparently, the defence has failed to cite any reason for further cross-examination of P.W.6.

In that view of the matter, I find no merit in the application. It is accordingly dismissed.

(Ashwani Kumar Singh, J)

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