

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30438 of 2015

Arising Out of PS.Case No. -208 Year- 2005 Thana -KATIHAR MUFFASIL District- KATIHAR

Md. Yusuf, son of late Sheikh Allaudin, resident of village Garbheli, P.O. Katihar,
P.S. Muffasil katihar, Distt. Katihar.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Anita Kumari, Adv.

For the State : Mr. Anil Kumar Singh 1 (A.P.P.)

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-07-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order dated 18.4.2015 by which the 3rd Additional Sessions Judge, Katihar, has directed re-examination of PW-2 to PW-10 in Sessions Trial No. 21 of 2006.

The background fact is that a discharge petition was filed on behalf of one of the accused persons which was rejected by the Court below on 4.11.2006. After rejection of the discharge petition, charges were framed against rest of the accused by an order dated 21.7.2007. Then the accused whose prayer for discharge had been rejected, filed an application before this Court vide Cr. Misc. 49548 of 2006 in which by an order dated 20.11.2007 further Proceedings concerned, was stayed. Since the Court below was under impression

that there was a stay only in regard to one accused he examined the witnesses as far as the other accused were concerned and the Prosecution case was closed on 16.7.2010.

Ultimately, the application filed here was finally rejected by this Court on 3.7.2012 on which order was received by the Court below on 5.12.2013.

A petition was then filed before it to summon all the witnesses at least so far as one of the accused persons was concerned.

When the Trial Court looked into the order of this Court passed in Cr. Misc. 49548 of 2006, it found that the entire further Proceedings of the Trial had been stayed and hence desired that witnesses who had been examined be re-summoned. It was under these circumstances that the witnesses were recalled for re-examination on behalf of all the Accused.

The Petitioner who is the Informant seeks quashing of the said order.

Having looked into the peculiar facts, I would be inclined to hold that summoning witnesses would be perfectly justified if any of the accused did not cross-examine the witness on account of the stay.

Hence, the Trial Court is directed to look into the records of case and find out as to which of the witnesses cross-examined and

so accordingly summon them and permit their cross-examination by the accused who did not do so.

With the aforesaid observation, the application stands disposed off.

However, the Trial Court is directed to conclude the Trial expeditiously without granting unnecessary adjournment to any Party for which reason, the Trial Court is directed to send a list of the witnesses **fixing specific dates** for production of the witnesses along with a copy of this order in connection with Sessions Trial No. 21 of 2006 arising out of Katihar Town P.S. Case No. 208 of 2005, to the Superintendent of Police, Katihar, and the Superintendent of Police, Katihar, 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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