

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.40572 of 2012**

Arising Out of PS.Case No. -8 Year- 2007 Thana -null District- AURANGABAD

- =====
1. Brij Mohan Singh S/O Hira Singh Yadav R/O Village - Budhaikala, P.S. Uphara, District - Aurangabad
  2. Brajesh Yadav @ Bidesh Yadav S/O Hira Singh Yadav R/O Village - Budhaikala, P.S. Uphara, District - Aurangabad

.... .... Petitioner/s

Versus

1. The State Of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Umesh Kumar, Adv.

For the Opposite Party/s : Mr. APP

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 20-03-2015**

This application under section 482 of the Code of Criminal Procedure has been filed for quashing of the order dated 24<sup>th</sup> August, 2012 passed in Sessions Trial No. 146 of 2008 arising out of Uphara P.S.Case No.8 of 2007 by the learned Additional Sessions Judge-II, Aurangabad, whereby the petition under section 311 of the Code of Criminal procedure filed by the petitioners for further cross-examination of P.W.1, P.W.2 and P.W.3 has been rejected.

The petitioners are named accused in a case registered under sections 304-B read with 34 of the Indian Penal Code and 27 of the Arms Act. After framing of charge, altogether 13 witnesses have already been examined. At the fag end of trial, a petition was filed for

recalling P.W.1, P.W.2 and P.W.3 for the purpose of cross-examination. The court below has considered the application filed on behalf of the petitioners and rejected the same vide order dated 24<sup>th</sup> August, 2012. It has been held that those three witnesses have fully been cross-examined and there is no vagueness in their evidence and the application under section 311 of the Code of Criminal Procedure has been filed on behalf of the petitioners just to linger the disposal of the case on flimsy grounds.

The powers under section 311 of the Code of Criminal Procedure are discretionary and the same have to be exercised with great care and caution. The paramount consideration is doing justice to the case. I find no error in the order impugned passed by the court below.

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

**(Ashwani Kumar Singh, J)**

Pradeep/-

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