

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49329 of 2012

Arising Out of PS.Case No. 44 Year- 2005 Thana -Khagaul District- - Patna

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1. Chandra Mohan Vishwakarma @ Mohan Chandra Vishwakarma @ Mohan S/O
Ram Briksha Vishwakarma Resident Of Village- Dalluchak, Police Station-
Khagaul, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Shiv Shankar Vishwakarma S/O Shiv Narayan Vishwakarma Resident Of
Village Dalluchak, Police Station- Khagaul, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. L.K. Tandan, Adv.

For the State : Mr. A.A. Khan, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-07-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order dated
30.10.2012 passed by the Assistant Sessions Judge, I, Danapur, Patna,
in connection with Sessions Trial No. 816 of 2007 by which he has
refused an application for calling some witnesses.

It has been submitted that it is imperative and in the
interest of justice that the Petitioner No. 1 be given one opportunity to
show that he was on official duty on the date of occurrence.

Since the duty of the Court is to do justice and not to
proceed without granting a Party an opportunity to prove its case, the
application stands disposed off with a direction to the Court below to

give a Dasti Summon to the Petitioner for a single date.

However, if the Officers fails to produce himself on the said date, the Court below should not wait for him and further and shall conclude the trial positively within a period of forty five working days thereafter.

This order is being passed on the submission that the Trial is still at the same stage. The Trial Court should take note that even after refusing such a prayer on ground of delaying the Trial, he himself has delayed it. Had be given the date, summons at the first instance, by now the trial could have been concluded.

(Anjana Prakash, J)

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