

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 14965 of 2013

Arising Out of PS.Case No. -329 Year- 2009 Thana -MOHANIA District- BHABHUA (KAIMUR)

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Shyam Kishor Bind Son of Late Balu Bind Resident of Village- Saray,
Police Station- Mohania, District- Kaimur (Bhabua).

... Petitioner/s

Versus

1. The State of Bihar
2. Raj Keshar Bind, Son of Sri Shobh Nath Bind Resident of Village-
Saray, Police Station- Mohania, District- Kaimur (Bhabua).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

4 09-07-2015 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') for quashing the order dated 19.02.2013 passed in S.T. No. 121 of 2010/S.T. No. 248 of 2012 by the learned Ad hoc A.D.J. Vth, Kaimur (Bhabua) by which the petition filed by the petitioner, who is an accused in the case, under Section 311 of the Code has been rejected.

On 02.05.2014, the Court had issued notice to the opposite party no. 2 (informant) and it appears that the service has been held to be valid. However, nobody appears on behalf of the opposite party no. 2 when the case is taken up.

Learned counsel for the petitioner submits that



it was a case and counter case in which both sides had suffered injury. However, the injury suffered by the petitioner, who is accused in the present case, though exhibited in the other counter case was made an exhibit due to which there is apprehension that justice might not be done. It is submitted that both the cases are pending before the same Court and have not yet been disposed off.

Learned A.P.P. submits that as per Section 311 of the Code only witnesses can be recalled or summoned in the event the Court finds his evidence to be essential to the just decision of the case. However, in the present case the petitioner has filed petition for calling of the document which is not covered under Section 311 of the Code and thus the application filed on behalf of the petitioner was misconceived from the very beginning and the Court has committed no illegality by rejecting the same.

Having heard learned counsel for the parties, though the Court finds substance in the contention of learned A.P.P. but also feels that the petitioner has made out a point where his injury in the counter case sustained in the same sequence of events may be a relevant factor for the present case also. Keeping that in mind, this Court permits the petitioner to obtain a certified copy of his injury report which has been exhibited in the counter case and get that certified copy exhibited in accordance with law in the present case and

one witness is necessary for exhibiting the injury report as contained in the certified copy shall be allowed to be produced on behalf of the petitioner. It is further necessary that the hearing of both the cases be taken up together and decided by the same Court.

Accordingly, the Court shall give one opportunity to the petitioner for that purpose. It is made clear that no further witnesses would be allowed to be called on behalf of the petitioner which has also been agreed to by learned counsel appearing on behalf of the petitioner. The said exercise must be completed latest by 31st July, 2015 and after that the Court shall proceed to hear the matter and finally dispose off the same expeditiously. Learned counsel for the petitioner assures that he shall also co-operate in the trial and not delay the matter any further. If the Court finds that the petitioner is trying to delay the matter, it will be open for the Court to proceed in accordance with law after recording such dilatory tactic on behalf of the petitioner.

The application stands disposed off in the aforesaid terms.

(Ahsanuddin Amanullah, J.)

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