

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50623 of 2012

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

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1. Brij Kumari Devi W/O Prabhunath Shukla Resident Of Village- Rampurwa,
Police Station- Chanpatia, District- West Champaran At Bettiah.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Markandey Shukla S/O Ramanand Shukla Resident Of Village- Rampurwa,
Police Station- Chanpatia, District- West Champaran At Bettiah.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi S. Pankaj, Advocate.

For the Opposite Party/s : None.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-09-2015

No one appears on behalf of Opposite Party No.2 on repeated calls.

The Petitioner seeks quashing of the order dated 24.05.2012 passed by Ist Additional Sessions Judge, Bettiah, West Champaran in Cr.Revision No.154 of 2011 by which the Ist Additional Session, Bettiah set aside the order dated 17.08.2011 passed by Judicial Magistrate, Bettiah in Trial No.92 of 2011 corresponding to Trial No.80 of 2012 by which he had declined to summon the Petitioner under Section 319 Cr.P.C. Subsequently, on remand now summons have been issued on the same petition.

The case of the Informant is that on the date of occurrence

the accused persons came variously armed and started to assault the Informant. During investigation, the allegations so far as the Petitioner was concerned were found to be false, hence, final report was submitted. Later during trial, seven witnesses were examined out of P.Ws.2,3 and 4 turned hostile whereas P.Ws.5 and 6 supported the version of the prosecution story. However, when an application under Section 319 Cr.P.C. was filed before the Magistrate, he declined to summon the Petitioner.

Having considered that the trial Court alone was competent to adjudicate as to whether the Petitioner should have been summoned under Section 319 Cr.P.C. and he did not think so as the provision of Section 319 Cr.P.C. are to be used sparingly, the application is allowed by setting aside the order dated 24.05.2012 passed by Ist Additional Sessions Judge, Bettiah, West Champaran in Cr.Revision No.154 of 2011.

(Anjana Prakash, J)

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