

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

**Criminal Miscellaneous No.31178 of 2013**

Arising Out of PS.Case No. -46 Year- 1996 Thana -CHIRAIYA District- EAST CHAMPARAN  
(MOTIHARI)

- =====
1. Krit Mahto S/O Late Shivraj Mahto Resident Of Village- Balua, Police Station- Chiraiya, District- East Champaran At Motihari.
  2. Jawahir Mahto @ Jawahar Prasad Mahto S/O Latre Ramdeo Mahto Resident Of Village- Balua, Police Station- Chiraiya, District- East Champaran At Motihari.

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. Sugandhi Devi W/O Ram Bahadur Mahto Resident Of Village- Balua, Police Station- Chiraiya, District- East Champaran At Motihari.

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

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**Appearance :**

For the Petitioner/s : Mr. Amrendra Kumar No.1, Adv.

For the Opposite Party/s : Mr. B.M.P. Sinha, APP

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

ORAL JUDGMENT

**Date: 02-08-2016**

The petitioners have been made accused in Chiraiya P.S.Case No. 46 of 1996 registered under Sections 323, 342, 354 and 376/511 of the Indian Penal Code. After investigation, the police submitted charge-sheet and accordingly cognizance of the offence was taken and thereafter the case was committed to the court of Sessions for trial. After framing of charge, the trial commenced and on 12.12.2002 P.W.1, namely, Manoj Kumar was examined and the defence declined to cross-examine him. After lapse of 11 years, on 04.03.2013, a petition was filed on behalf of the petitioners to recall P.W.1 for cross-examination. The said prayer of the petitioners was

opposed by the learned counsel for the State.

Taking into consideration the fact that the charges were framed on 04.01.2002 and P.W.1, namely, Manoj Kumar was examined on 12.12.2002 as also the fact that the petitioners had declined to cross-examine him, as a result of which, the trial court had discharged P.W.1, the court below has rejected the application for recall of P.W.1 for cross-examination.

It would be evident from a perusal of the impugned order that the aforesaid application for recall of P.W.1 was made by the defence at the stage of argument. In that view of the matter, I am of the opinion that the court below has rightly rejected the application preferred by the petitioners.

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

**(Ashwani Kumar Singh, J)**

Pradeep/-

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