

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42869 of 2015

Arising Out of PS.Case No. -118 Year- 2010 Thana -KATIHAR District- KATIHAR

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1. Munni Masomat W/o Late Sudama Das, Resident of Mohalla - Teza Tola, P.S. - Sahayak, District -Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nand Kishore Yadav @ Hari Kishore Yadav, S/o Awadhesh Pd. Yadav, Resident of Mohalla - Mahipal Nagar, Teza Tola, P.s. - Sahayak, District -Katihar.
3. Damodar Yadav, S/o Late Deo Raj Pd. Yadav, resident of Mohalla -Manipal Nagar, Teza Tola, P.S. - Sahayak, District - Katihar.
4. Shashi Yadav, S/o Damodar Yadav, resident of Mohalla - Mahipal Nagar, Teza Tola, P.S. - Sahayak, District - Katihar.
5. Suresh Yadav, S/o Damodar Yadav, Resident of Mohalla - Mahipal Nagar, Teza Tola, P.S. - Sahayak, District -Katihar.
6. Mukesh Kumar Jaiswal, Son of Suresh Jaiswal, residence of Mohalla - Traffic Chowk (near the Central Bank) Katihar, P.s. - Sahayak, District - Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Adv.
For the Opposite Party/s : Mr. Parmanand Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-04-2016

Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner is the informant of the FIR of Katihar Town P.S.Case No. 118 of 2010 dated 25.04.2010 registered under Sections 323, 341, 448, 380, 427 and 436/34 of the Indian Penal Code.

3. In the aforesaid case, after completion of investigation, charge-sheet was submitted and by order dated 19th April, 2012



charges were framed against the accused persons. Thereafter, repeated summons, bailable warrants, non-bailable warrants etc. were issued against the witnesses and sufficient opportunity was given to the public prosecutor to produce witnesses but only one prosecution witness could be examined till 16th February, 2015, the date on which the prosecution evidence was closed. Thereafter, an application was filed on behalf of the prosecution on 20th February, 2015 under Section 311 of the Code of Criminal Procedure (for short 'CrPC') for giving one more opportunity to the prosecution to produce its witnesses.

4. After hearing the parties, the said application dated 20th February, 2015 was allowed by the learned 5th Additional Sessions Judge, Katihar, vide order dated 5th May, 2015, on the condition that the prosecution shall produce its witnesses on the dates so fixed by the court, but in spite of that, the prosecution failed to produce its witnesses on the next two dates fixed by the court and ultimately on 27th May, 2015 the trial Judge once again closed the prosecution evidence and the case was fixed on 29th May, 2015 for judgment.

5. On the date of judgment, the informant of the case once again filed an application under Section 311 of the CrPC and requested for giving some more time so that the witnesses may be examined on behalf of the prosecution. The said application of the

informant has been rejected by the trial court, vide order dated 13.08.2015. The aforesaid order dated 13.08.2015 is under challenge before this Court.

6. It has been contended by the learned counsel for the petitioner that the petitioner is a widow and in the interest of justice the court below ought to have allowed her application preferred under Section 311 of the CrPC. He has contended that if the impugned order dated 13.08.2015 is not set aside, the prosecution case would fail for no fault on the part of the informant.

7. I have heard learned counsel for the petitioner and perused the record.

8. I find from the impugned order dated 13.08.2015 that the trial court has given sufficient reasons for rejecting the application. The prosecution had been given sufficient opportunity to produce its witnesses and all efforts taken by the court in this regard went in vain. The court was left with no option but to close the prosecution evidence. However, at the request of the prosecution, the trial court gave one opportunity to the prosecution to produce its witnesses with specific direction that the witnesses must be produced on each and every date fixed by the court. Despite the aforesaid concession given by the court, the prosecution failed to examine its witnesses on two consecutive dates. In the background of the facts stated above, the

trial court has rightly rejected the subsequent application filed by the informant of the case under Section 311 of the CrPC for examination of witnesses.

9. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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