

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37835 of 2016

Arising Out of PS.Case No. -821 Year- 2013 Thana -KHAGARIA COMPALINT CASE District-
KHAGARIA

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1. Smt. Girja Devi Wife of Baidyanath Prasad
2. Baidyanath Prasad Son of Late Budhu Sah
3. Shambhu Kumar Son of Baidyanath Prasad
All residents of village - Chitragupt Nagar, P.S. Chitragupt Nagar, District
Khagaria

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajendra Sharma, Son of Late Tilak Sharma, resident of Village -
Rasauk, P.S. Markahi, District Khagaria

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Vikramdeo Singh, Advocate.
For the Opposite Party/s : Mr. Amitesh Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 26-09-2016 Heard Sri Vikramdeo Singh, learned counsel for the

petitioners, and Sri Amitesh Kumar, learned A.P.P.

The petitioner has filed this petition under Section
482 of the Code of Criminal Procedure for quashing the order
dated 28.07.2016 passed in Compliant Case No. 821C/2013 by
which the petition of the complainant filed under Section 311 of
the Code of Criminal Procedure was allowed.

The facts in short are that the complainant filed
Complaint Case No. 821C/2013. The complainant was examined
on solemn affirmation. The complainant also examined his
witnesses. Thereafter, a prima facie case under Section 420/34 of
the Indian Penal Code was found to proceed against the accused



persons. Accordingly, summons were issued. After appearance of the accused, the case was fixed for evidence before charge on 04.03.2016 and 20.04.2016 was fixed for closing the evidence and evidence of complainant before charge was closed. The complainant filed a petition under Section 311 of the Code of Criminal Procedure to allow him to examine the witnesses before charge and by order impugned dated 28.07.2016, the learned court below allowed the petition.

Sri Vikramdeo Singh, learned counsel for the petitioners, submits that the order impugned is illegal. The complainant was not appearing on any date even after appearance of the accused persons and the learned court below has rightly closed the evidence of the complainant before charge and fixed the case for orders.

It appears that the case was fixed for evidence before charge on 04.03.2016 and after two dates, i.e. 04.03.2016 and 20.04.2016, without giving proper information to the complainant, the evidence of the complainant before charge was closed. When the complainant filed this petition, the learned court below allowed the petition of the complainant to adduce his evidence before charge. Therefore, I do not find any illegality in the order impugned. Accordingly, this petition is dismissed.

However, the petitioners may raise all these points at the time of framing of charge before the learned court below after examination of witnesses.

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(Prabhat Kumar Jha, J)