

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39476 of 2015

Arising Out of PS.Case No. -116 Year- 1996 Thana -PATEPUR District- VAISHALI(HAJIPUR)

1. Arvind Kumar Rai Son of Ram Narayan Rai
2. Virendra Kumar Rai Son of Ram Narayan Rai

Both are residents of Village - Simarwara P.S. - Patepur, District - Vaishali.

.... Petitioners

Versus

The State of Bihar.

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate

For the Opposite Party/s : Mr. S. N. Shukla, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-06-2016

It is well settled that the power of court to recall any witness or witnesses already examined or to summon any witness can be invoked even if evidence in both sides is closed so long as the court retains seisin of the criminal proceedings. However, such power is to be exercised only if the evidence of such witness appears to the court to be essential to the just decision of the case. The petitioners are being prosecuted in Sessions Case No. 129 of 2001 arising out of Patepur P. S. Case No. 116 of 1996 for the charges under Sections 380, 307, 149 and 452 of the Indian Penal Code. At the fag end of the trial, after examination of almost all the

prosecution witnesses the petitioners filed an application before the trial court for summoning the prosecution witnesses under Section 311 of the Code of Criminal Procedure for further cross-examination as the parties have amicably settled their dispute outside the court.

By the impugned order dated 7th May, 2015 the trial court has rejected the applications of the petitioners on the ground that the offence punishable under Section 307 of the Indian Penal Code is not compoundable in nature and the witnesses who have supported the prosecution case during trial cannot be summoned by the court merely for declaring them hostile. I see no illegality in the order passed by the trial court. The application, being devoid of any merits, is dismissed accordingly.

(Ashwani Kumar Singh, J.)

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