

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18297 of 2016

Arising Out of PS.Case No. -10 Year- 2009 Thana -CHAND District- BHABHUA (KAIMUR)

=====

1. Chhabinath Rajak
2. Akhilesh Rajak
3. Kanhaiya Rajak
All sons of Jagarnath Rajak
4. Somaru Rajak
5. Mongru Rajak
Both sons of Somnath Rajak
All are resident of vill – Gehua, P.s. – Chand, Distt – Kaimur at Bhabhua
..... Petitioner/s

Versus

1. The State of Bihar
2. Anand Lal Thakur s/o Monohar Sharma @ Manehi Sharma Arvind
Kumar Singh, Vill – Gehua, P.S. – Chand, Distt – Kaimur at Bhabhua
..... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv.
For the Opposite Party/s : Mr. Rajiv Nayan (App)

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 30-08-2016 Heard both sides.

The petitioners preferred this petition under Section 482 of the Criminal Procedure Code for quashing the order dated 21.01.2016 passed by Sessions Judge, Kaimur at Bhabhua in Sessions Trial no. 207/2009 by which the petition of the petitioners filed under Section 311 of the Criminal Procedure Code for recalling PWs 4 and 7 is dismissed.

The petitioners filed this petition under Section 311 of the Criminal Procedure Code stating that in Chand P.S. Case No. 10/2009 name of the petitioners figured in the case after 45 days

of the occurrence that too on mere suspicion.

PW 4 Ravindra Thakur and PW 7 Anand Lal and the informant were examined and cross-examined. PW 4 and PW 7 have stated in their deposition before the court that they saw the petitioners on the bridge of Gehuanma river, but they did not disclose this fact either in the First Information Report or in their statement under Section 161 of the Criminal Procedure Code. The witnesses improved their case by stating the facts that they saw the petitioners on the bridge, therefore, the attention of the witnesses are necessary to be drawn with reference to the statement under Section 161 of the Criminal Procedure Code.

It is evident that the Investigating Officer of the case has already been examined. The accused persons got ample opportunity to cross-examine PW 4 and PW 7 with reference to the statements of the witnesses under Section 161 of the Criminal Procedure Code. From the perusal of the order impugned it appears that the learned Sessions Judge found that the defense has thoroughly cross-examined their witnesses and also asked question with regard to bridge of Gehuanma river. The witnesses were examined on all points and also got opportunity to draw their attention to their previous statement recorded by the Investigating Officer.

It appears that if any improvement is made in course of evidence during trial the defense has got opportunity to draw the attention of the witnesses under Section 145 of the Evidence Act with reference to Section 161 of the Code of Criminal Procedure and it has nowhere been stated that the attention of the witnesses has not been drawn. Therefore, I find that petition is filed only to cause delay. I do not find merit in this case; Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J.)

Vinita/-

U		T	
---	--	---	--