

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16644 of 2015

Arising Out of PS.Case No. -233 Year- 2006 Thana -SARAN COMPLAINT CASE District-
SARAN

=====

1. Kedar Nath Pandey, Son of Late Sri Krishna Deo Pandey
2. Pranpati Devi, Wife of Late Baleshwar Nath Pandey
3. Nageshwar Pandey, Son of Late Krishna Deo Pandey
Above all Resident of Mohalla - Brahmpur, Brahman Toli, P.S.-Bhagwan Bazar,
District - Saran

.... Petitioners

Versus

1. The State of Bihar
2. Nirmal Kumar Pandey, Son of Sukh Deo Pandey, Resident of Mohalla -
Brahmpur, Brahman Toli, P.S.- Bhagwan Bazar, District - Saran

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Madhuranand Jha, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-07-2016

Section 311 of the Code of Criminal Procedure reads

as under:-

“311. Power to summon material witness, or examine person present. - Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine

any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

2. From a bare reading of Section 311 of the Code of Criminal Procedure, it is crystal clear that the Court has been empowered to summon any person as a witness at any stage of inquiry, trial or other proceeding. It also confers the Court to recall or re-examine any witness at any stage of the proceeding where it is essential in the interest of justice. This power is discretionary in nature and it can be exercised till the Court is in seisin of any criminal proceeding.

3. In the present application, the petitioners have challenged the order dated 20.02.2015 passed by the Jurisdictional Magistrate in Complaint Case No. 233 of 2006/Tr. No. 23 of 2015 whereby the learned Magistrate has permitted the complainant to adduce evidence at the cost of Rs. 500 to be deposited in Civil Court, Nazarat under legal aid head.

4. It is submitted by the learned counsel for the petitioners that the case of the complainant was closed by the court on 22nd of July, 2014 and the matter was fixed for recording the statement of accused under Section 313 of the Code of Criminal Procedure and at this stage, allowing the complainant to adduce

evidence on payment of cost of Rs. 500 was not proper and expedient in the interest of justice.

5. In my opinion, in view of the express provision prescribed under Section 311 of the Code of Criminal Procedure as discussed hereinabove, the application has got no merit. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	30.07.2016
Transmission Date	30.07.2016