

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Revision No.930 of 2017**

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Randhir Singh @ Randhir Kumar, son of late Binay Prasad Singh, resident of village- Prabodhi Narendra, P.O + P.S.- Sarai, District- Vaishali.

.... .... Petitioner/s

Versus

1. State of Bihar
2. Mahendra Singh, son of late Devi Singh, resident of village Bagmali, P.S.- Hazipur, District- Vaishali.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Girjanand Prasad

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**  
**ORAL ORDER**

3      14-11-2017                      Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner has preferred this revision application against order dated 23.02.2017 passed by the Sub Divisional Judicial Magistrate, Vaishali at Hajipur in Complaint Case No. 304 of 2003 whereby petition filed by the petitioner under Section 311 Cr.P.C. to examine his daughter as a defence witness was rejected. Petitioner is charged under Section 498A and other allied sections of the penal code.

Learned counsel for the petitioner submits that examination of petitioner's daughter Mausami Kumari is important in this case. However, what is relevancy of examining Mausami Kumari, daughter of petitioner, is not categorically stated. The impugned order itself disclosed the fact that accused



was given opportunity to adduce evidence in defence thereafter case is fixed for argument. Section 311 Cr.P.C. is in two parts. First part is discretionary whereas second part is mandatory means the trial court must examine the witness finding his evidence essential to the just decision of the case. The case of the petitioner does not come within second part. Examination of the petitioner's daughter does not appear essential to the just decision of the case for the reason that alleged offence against the complainant is of the year 2003 and Mausami Kumari, witness, who is proposed to be examined in defence, was borne in the year 2002, so she was infant less than a year old at the time of occurrence so she is not a competent witness to give any kind of evidence in the case.

So finding no merit, this application stands dismissed.

**(Arun Kumar, J)**

Sujit/-

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