

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20082 of 2014

Arising Out of PS.Case No. -6 Year- 2009 Thana -HARPUR District- MUNGER

- =====
1. Gonu Jha @ Gunnu Jha
 2. Puttu Jha Both S/o Late Chandra Kant Jha Resident of Village Batsar, Police Station Harpur, District Munger.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Sinha

For the Opposite Party/s : Mr. Humayu Ahmad Khan

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 21-06-2017

1. The petitioners seek quashing of the order dated 31.01.2014 passed in Criminal Revision No. 203 of 2013 by the learned Sessions Judge, Munger. The said revision was filed against the order dated 24.07.2013 passed by the learned Judicial Magistrate, 1st Class, Munger. The learned Magistrate, as per the order dated 24.07.2013 passed in G.R. No. 395 of 2009 allowed the petition of the prosecution filed under Section 311 of the Cr.P.C.
2. Heard Mr. Rakesh Kumar Sinha learned counsel for the petitioners and Mr. Humayu Ahmad Khan, APP for the State.
3. The facts, in brief, is that a police case vide Harpur P.S. Case (Tarapur Munger) No. 6 of 2009 was registered against the petitioners on the basis of *fardbeyan* of informant (Jagda Nand Jha). After



investigation, police submitted charge-sheet. In course of trial, substance of accusation was explained to the petitioners for the offence under Section 447, 341, 323/34 of the Indian Penal Code. The prosecution examined three witnesses and his evidence was closed on 29.04.2013. Thereafter, statement of the petitioners was recorded and after examination of the defence witnesses, the case was fixed for argument. The prosecution filed petition under Section 311 of the Cr.P.C. on 18.06.2013 for examining the informant and one more witness. The court below finding necessity of recording statement of witnesses for the ends of justice, allowed the prayer of prosecution and directed him to produce the witnesses. The petitioners being aggrieved by the said order filed the Cr. Rev. No. 203 of 2013 which after hearing both sides was dismissed at the admission stage on 31.01.2014 by the Sessions Judge, Munger.

4. The learned counsel for the petitioners submits that the Sessions Judge, Munger dismissed the revision without appreciating the facts and going through the order of Magistrate who allowed the petition under Section 311 of the Cr.P.C. to fill the lacuna of prosecution case. The prosecution has failed to submit reasonable explanation for non-examination of these two witnesses after four years of commencement of trial. The informant had full knowledge about the stage of trial as his father and younger brother were examined during trial. The



learned Magistrate has passed the impugned order in a mechanical manner without applying its judicial mind and so the same is fit to be quashed.

5. The learned APP, on the other hand, opposed the submissions made on behalf of the petitioners.

6. On perusal of the documents available on records, I find that the S.D.J.M. has given good reason while allowing the petition filed under Section 311 of the Cr.P.C. for recording evidence of the two witnesses. The witnesses sought to be examined are informant and one Munna Jha who were produced before the court and were ready to depose on behalf of the prosecution without causing any delay.

7. Thus, I find that no case for quashing the impugned order is made out. The application is devoid of any merit and, is accordingly, dismissed.

8. The court below is directed to expedite the trial.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.06.2017
Transmission Date	23.06.2017

