

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.388 of 2017

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1. Sukhari Yadav, son of Late Shri Chhate Yadav, resident of Village-Bagha Kol Tetriya, Police Station- Ara Muffasil in the district of Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Pd. Singh, Sr. Advocate
With Mr. Bimal Kumar

For the Respondent/s : Mr. Sri Ashok Kumar, App

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 19-07-2017 Heard learned counsel for the parties.

The present application has been filed seeking quashing of an order, dated 16.12.2016, passed by learned 6th Additional Sessions Judge, Bhojpur at Ara in Sessions Trial No. 209 of 2013, arising out of Ara Muffasail P. S. Case No. 47 of 2010, whereby a petition filed on behalf of the petitioner to recall P.W.5 Krishna Yadav for further cross-examination has been rejected.

Learned Senior counsel appearing on behalf of the petitioner has submitted that out of inadvertence certain questions could not be put to Krishna Yadav (P.W.5) during cross-examination, which questions are crucial for just decision of the case. He has submitted that accordingly the petitioner filed application for recall of the said witness



before the Court below, which has been rejected by the impugned order.

I have perused the impugned order. From the impugned order, I find that after evidence of P.W.5 was taken and he was cross-examined fully, he was discharged. It also appears that almost all the witnesses have already been examined at the trial.

I have perused the application filed on behalf of the petitioner before the Court below seeking recall of P.W.5. There is nothing in the application as to what question the defence wanted to put to the said P.W.5. The language of Section 311 of the Code of Criminal Procedure, 1973 is clear which confers jurisdiction on the Court to 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. The word "may" occurring in Section 311 of the Cr.P.C suggests that the said power is discretionary in nature, though such discretion is to be exercised in judicious way.

I do not find any illegality in exercise of discretion by the Court below.

This application has no merit and it is, accordingly, dismissed.

ArunKumar/-

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(Chakradhari Sharan Singh, J)

