

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.122 of 2017

- =====
1. Sunil Gope @ Sunil Yadav, son of Late Baijju Yadav
 2. Gaurav Kumar, son of Sunil Yadav
- Both resident of Tulshi Mandi, Police Station Alamganj,
District Patna
3. Ratan Gope @ Ratan Yadav, son of Jagdish Yadav,
resident of mohalla Chit toil, Police Station Chowk,
district Patna
 4. Kanhi Rawat @ Kanhi @ Kanahai Rawat, son of Late
Narayan Raut, resident of Pani Tanki, Begam Ki Haweli,
tenant of Surendra Yadav, Police Station Khajekalan,
District Patna

.... Petitioners

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Digamber Kr. Singh

For the Respondent/s : Mr. Jai Narain Thakur

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

- 3 02-03-2017 The petitioners are aggrieved by an order, dated 02.01.2017, passed by learned Additional Sessions Judge IV, Patna City, in Sessions Trial No. 842 of 2013, arising out of Chowk Police Station Case No. 91 of 2012, whereby he has rejected a petition filed by the petitioners, who are accused, for summoning certain witnesses who were not examined by the prosecution, though their statements were recorded under Section 161 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code") in course of investigation. The said application was filed to invoke Section 311 of the Code as according to the



petitioners, they were necessary witnesses to unfold the truth about the murder of the deceased.

I have perused the impugned order, from which it appears that the statements of these petitioners were recorded on 24.02.2016 under Section 313 of the Code and they were accorded opportunity to lead their evidence. They filed an application on 16.03.2016 declining to adduce any evidence in their defence and, accordingly, the defence evidence stood closed on the said date and thereafter the record was posted for argument. After lapse of more than eight months, they filed an application for adducing evidence under Section 311 of the Code. The learned Court below has recorded that the application for examination of the witnesses under Section 311 of the Code was not bona fide on the part of the petitioners and it was merely an attempt to prolong the trial.

Upon perusal of the impugned order, I do not find any case for interference under Section 397 read with Section 401 of the Code.

This application has no merit and is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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