

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3904 of 2014

Arising Out of PS.Case No. -733 Year- 1998 Thana -COMPLAINT CASE District- ARRARIA

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1. Md. Waris @ Md. Warish Alam S/O Late Sk. Saidur Rahman Resident Of Village- Murballa, P.S.- Araria, District- Araria
 2. Md. Sajid S/O Sk. Ziyaur Rahman Resident Of Village- Murballa, P.S.- Araria, District- Araria
 3. Md. Salim S/O Saidur Rahman Resident Of Village- Murballa, P.S.- Araria, District- Araria
 4. Md. Mahboob S/O Late Basiruddin Resident Of Village- Murballa, P.S.- Araria, District- Araria
 5. Nurul Hoda S/O Dost Mohammad Resident Of Village- Murballa, P.S.- Araria, District- Araria
 6. Md. Farooque S/O Late Yusuf Resident Of Village- Murballa, P.S.- Araria, District- Araria
 7. Md. Wahid S/O Late Sk. Wajuddin Resident Of Village- Murballa, P.S.- Araria, District- Araria

.... Petitioners

Versus

1. The State Of Bihar
2. Md. Kalumuddin S/O Late Sk. Abdul Resident Of Village- Murballa, P.S. & District- Araria

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Vikram Deo Singh, Advocate Mr. Mukesh Kumar Rana, Advocate
For the State	:	Mr. Ajay Kumar-I, A.P.P.
For O.P. No.2	:	Mr. Kundan Kumar Singh, Advocate Mr. Bishwajeet Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 26-07-2017

This application has been filed by the petitioners under Section 482 of the Code of Criminal Procedure challenging order dated 23.5.2013 passed by 1st Assistant Sessions Judge, Araria in Sessions Trial No.184 of 2000 whereby he has rejected the petition filed by the



accused persons under Section 311 of the Cr.P.C. for summoning some witnesses in this case.

2. The petitioners, who are accused in Sessions Trial No.184 of 2000 filed a petition dated 31.8.2009 under Section 311 of the Cr.P.C. read with Section 165 of the Evidence Act requesting the trial court to call for sanha entries recorded in P.S. B.H. Rai, Delhi and also to summon Md. Alam I.O. as a defence witness.

3. Learned counsel appearing on behalf of the petitioners submits that in fact Shoiab Alam the so-called victim was not kidnapped by the accused persons rather he was found working in Delhi in someone house and police finding such evidence submitted final form but the case proceeded on the basis of protest petition treating as a complaint case; so the examination of the I.O. of the case appears necessary. The other side supported the impugned order.

4. The impugned order shows that the evidence of the prosecution was closed on 14.9.2007 and after examining the accused persons under Section 313 Cr.P.C. on 6.10.2007 the accused persons examined six defence witnesses thereafter closing the defence evidence on



18.10.2008 the case was fixed for argument and adjourned from one date to another for approximately nine months. The petition under Section 311 Cr.P.C. was filed precisely on 20.7.2009.

5. Sufficient opportunity was given to the defence for examining its witness; the sanha entry which they want to bring on record its certified copy could be produced before the court to mark as evidence but it was not done. The case is proceeding on the complaint so examination of I.O. on behalf of defence does not appear essential for just decision of the case.

6. So this application stands dismissed with a direction to conclude the trial expeditiously fixing the case for argument.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06-09-2017
Transmission Date	06-09-2017

