

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.52294 of 2016**

Arising Out of PS.Case No. -9 Year- 2014 Thana -DAUDPUR District- SARAN

=====

Pappu Singh son of Sri Ravindra Singh, resident of village- Banwar Ke Tola, P.S.-  
Daudpur, District- Saran.

.... .... Petitioner

Versus

The State of Bihar

.... .... Opposite Party

=====

**Appearance :**

For the Petitioner/s : Mr. Udit Narayan Singh, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

=====

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL JUDGMENT**

**Date: 06-09-2017**

In order to enable the court to find out the truth and render a just decision, the provisions of Section 311 of the Code of Criminal Procedure (for short 'Cr.P.C.') are enacted wherender any court by exercising its discretionary authority at any stage of any inquiry, trial or other proceeding under Cr.P.C. can summon any person as witness or examine any person in attendance though not summoned as a witness or recall or examine any person already examined, who are expected to be able to throw light upon the matter in dispute.

2. The prosecution is neither expected to lead negative evidence nor the defence can compel the prosecution to lead negative evidence.

3. The present application under Section 482 of the Cr.P.C. has been filed by the petitioner for quashing the order dated



11.11.2016 passed by the learned Additional Session Judge-VIII, Chapra in Session Trial No. 473 of 2014, arising out of Daudpur P. S. Case No. 9 of 2014 by which the petition filed by the petitioner under Section 311 of the Cr.P.C. on 09.11.2016 for examining three charge-sheet witnesses on behalf of the prosecution has been rejected.

4. I have heard learned counsel for the petitioner and perused the record.

5. In view of the fact that the prosecution did not intend to examine all its charge-sheet witnesses, the court below has rejected the petition of the petitioner. If the prosecution reasonably believes that some of the witnesses have turned hostile, it has a right to give up such witnesses and the defence cannot compel such witnesses to be examined as prosecution witnesses.

6. In that view of the matter, no illegality can be found with the order passed by the court below.

7. Accordingly, the application, being meritless, is dismissed.

**(Ashwani Kumar Singh, J.)**

Kanchan/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 07.09.2017 |
| Transmission Date | 07.09.2017 |

