

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.559 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- -

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Bibi Somni wife of Late Md. Idris, Resident of Village -Dighli, P.S. - Palasi,
District -Araria

.... Petitioner

Versus

1. The State of Bihar
2. Md. Noor Alam, Son of late Nabudh Hussain Dafdar-II Tedhaganch Police Station, Resident of village Chargharia, P.S.- Tedhaganchh, District Kishanganj
3. Halim @ Halimuddin, Son of Tahir
4. Taufique son of Bahar Ali Both Resident of village-Belwa Jagir, P.S- Tedhagachh, District Kishanganj

.... Respondents

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Appearance :

For the Petitioner : Mr. Amal Kumar Sinha, Advocate
For the State : Mr. Umeshanand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 11-10-2017

Heard learned counsel for the petitioner as well as learned
Additional Public Prosecutor for the State.

2. The petitioner's second application filed under Section 319 Cr.P.C. for summoning one Halim @ Halimuddin, opposite party no.3 dated 30.06.2015 was rejected.

3. The prosecution case in brief is that Tedhagachh P.S. Case No.42 of 2011 was lodged against 40-50 unknown villagers. In the night the villagers apprehended one dacoit and these villagers assaulted him as a result of which he succumbed to injury. The FIR was lodged by local *Dafadar*.

4. Learned counsel for the petitioner submits that PWs.6 and 7 witnessed the occurrence and named about participation of Halim



@ Halimuddin in the assault though admits that it was the second application filed under Section 319 Cr.P.C. The first one was earlier rejected by the court against which he did not prefer any revision application.

5. Admittedly the FIR is against unknown and the deceased while retreating after committing robbery was lynched by a mob of villagers in the night and even the local *Dafadar* and others have not named opposite party no.3 as assailant. The first application filed under Section 319 Cr.P.C. for summoning Halim @ Halimuddin was rejected earlier. Thereafter two witnesses of her village were examined and on that basis again a petition under Section 319 Cr.P.C. has been filed.

6. Both PWs.6 and 7 are not resident of the place of occurrence rather resident of the village of the deceased far away from place. Their presence at the place of occurrence in the night does not inspire confidence. The nature of the evidence available against opposite party no.3 at the trial stage is not sufficient to summon him for trial, so finding no merit this revision application stands dismissed at the admission stage itself.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
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