

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.425 of 2017

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Shyam Nandan Singh, son of Sri Ram Bhajan Singh, resident of village-
Raghunathpur Basant, P.S.- Kurahani, District- Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saptashwar Singh,, Advocate.

For the Respondent/s : Md. Ashlam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 03-10-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner has filed this revision application against order dated 09.02.2017 passed by the learned Sessions Judge, Muzaffarpur in Sessions Trial No. 388 of 1996 whereby he has dismissed petition dated 09.02.2017 filed by the petitioner seeking adjournment of a week for giving evidence by obtaining certified copy of the Station Diary Entry submitted in the court and in alternative to mark the photocopy of the said Station Diary Entry but the same was denied by the impugned order.

3. Learned counsel for the petitioner submits that photocopy of the Station Diary Entry should be marked by the court as a secondary evidence because the entire case of the petitioner is rests on plea of *alibi*. Contrary to that, learned counsel appearing on behalf of the State submits that earlier also



petitioner had moved before this Court for examining defence witness and the same was allowed by this Court with a direction not to give unnecessary adjournment but after examining his defence evidence as prayed in that application, again an application has been filed for marking photocopy of Station Diary Entry in one Malahi P.S. case of East Champaran.

4. Having considered the rival submissions and on perusal of record, it appears that earlier the trial Court had also taken effort to call for the desired Station Diary Entry No. 458 dated 23.06.1994 from Malahi Police Station, East Champaran vide Annexure-5 of the application, and the report received from the concerned Police Station shows that said Station Diary Entry got damaged and lost in flood, therefore, the said document is not available. A photocopy of a document is secondary evidence but it requires to be proved that photocopy of the concerned document is photograph or made of original one, but as original document is not available, therefore, the photocopy of the Station Diary Entry cannot be taken into consideration as evidence. It cannot be admissible piece of evidence unless it is proved that its a copy of the original document. Therefore, the trial court has rightly rejected the application, so finding no merit, this application stands dismissed.



5. The trial court is directed to expedite the trial and conclude the same at the earliest because this case relates to the year 1994.

(Arun Kumar, J)

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