

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8193 of 2018

Arising Out of PS.Case No. -9 Year- 2011 Thana -COMPLAINT CASE District- SUPAUL

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Anil Kumar S/o Sri Umesh Prasad Yadav, R/o Village- Guriya, Post- Guriya, P.S.-
Jadiya, District- Supaul.

.... Petitioner

Versus

1. The State of Bihar.
2. Arun Kumar Mehata, S/o Rajendra Mehta,
3. Rajendra Mehta S/o Not Known,
Both are R/o Village- Manganj, East, P.S.- Jadiya, District- Supaul.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-08-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application under Section 482 of the Code of
Criminal Procedure has been filed by the petitioner for quashing the
order dated 05.12.2017 passed by the learned S.D.J.M. Supaul in
connection with Complaint Case No.9-C of 2011 whereby he has
rejected the petition filed by the complainant under Section 311 of
the Code of Criminal Procedure (for short 'CrPC') to examine a



witness.

3. Learned counsel for the petitioner submitted that the impugned order dated 05.12.2017 is bad in law in view of the fact that the court was duly bound to examine the witness present before it for whose examination the application was filed. He contended that by rejecting the prayer of the petitioner, the court has committed a gross error and if, the impugned order is not set aside, it will cause great prejudice to case of the complainant.

4. Having heard learned counsel for the petitioner and carefully perused the record, I find that the petitioner, who is the complainant in the case in which cognizance has been taken under Section 138 of the Negotiable Instruments Act, had filed the application under Section 311 of the CrPC after all the witnesses on behalf of the complainant were examined and the case of the complainant was closed. In the application filed by the petitioner, the name of the witness was not disclosed. The only thing stated in the petition was that a person present before this Court is to be examined as a formal witness. However, nothing was stated in the petition as to how his examination was essential for the just decision of the case or as to how he was acquainted with any document connected with the case.

5. Regard being had to the vague and non-specific



application filed by the petitioner, the learned Magistrate vide order dated 05.12.2017 rejected the petition.

6. Section 311 of the CrPC enables the court to find out the truth and render a just decision. The object of this provision as a whole is to do justice not only from the point of view of the complainant. The court examines the witness under this section neither to help the prosecution nor to help the accused. Such power is also not to be exercised to fill up the gaps. If the court below was not satisfied with the application of the petitioner regarding the identity of the person to be examined by the complainant or the reason for which his examination as a witness was necessitated, no illegality can be found with the order impugned.

7. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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