

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41465 of 2018

Arising Out of PS. Case No.-100 Year-2004 Thana- RAHUI District- Nalanda

Kapildeo Yadav S/o Late Dhari Yadav, R/o Vill.- Dhamasant, P.S.- Rahul,
District- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranvijay Singh

For the Opposite Party/s : Mr. Md. Fahimuddin

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 18-09-2018 The petitioner is aggrieved by the order dated 28.06.2018 by which the learned Trial Court has rejected the application dated 22.06.2018 filed by the petitioner under Section 311 of the Cr.P.C. wherein he prayed for issuance of summons to some persons whom he claimed that they are the witnesses on behalf of the defence.

Learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Apex Court in the case of **Zahira Habibullah Sheikh & Anr. Vrs. The State of Gujarat** reported in **2006 (3) PLJR (SC) 83**.

Learned Trial Court has recorded in the impugned order that as many as 5 dates were fixed for defence evidence but when the case was fixed for hearing, the application under Section 311 Cr.P.C. was filed.



In the opinion of this Court, the facts and circumstances which were placed before the Hon'ble Apex Court in the said case were quite different and distinct and it is only in the said facts of the case the Hon'ble Apex Court had taken the view. So far as the propositions that there should be a fair trial is not in dispute. In the present case, this Court does not find any reason to say that there is any unfairness on the part of the Trial Court in rejecting the application.

It appears that the defence evidence was closed on 11.05.2018 and one month thereafter, the present application was filed. This Court is satisfied that the trial of the year 2006 is required to be concluded now and appropriate time was granted to the defence to bring the witnesses but it failed. The application at this stage seems to be with intention to delay the trial.

This application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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