

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.325 of 2018

=====
Praksah Sah, S/o Late Babulal Sah, Resident of Mohalla-
Chhoti Keshopur, P.S.- Jamalpur, District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Krishnandan Sahoo, Son of Late Ramswarup Sahoo,
Resident of Mohalla- Chhoti Keshopur, P.S.- Jamalpur,
District- Munger.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s :Mr. Krishna Pd. Singh, Sr. Adv.
Mr. R.S. Choudhary, Adv.

For the State :Mr. Pramod Kumar Pandey, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

- 3 18-08-2018 The petitioner, one of the accused persons in Sessions Trial No. 465 of 1994, has challenged the order dated 08.02.2018, passed by the learned *Adhoc* Fast Track Court No. I, Munger in the aforesaid Sessions Trial No. 465 of 1994, arising out of Jamalpur P.S. Case No. 140 of 1993, whereby the application preferred on his behalf for summoning opposite party No. 2/the informant of the case for facing trial along with other accused persons under the provisions of Section 319 the Code of Criminal Procedure,



1973 (*in short the Cr.P.C.*) has been rejected.

The petitioner had earlier preferred an application before the Trial Court seeking summoning of opposite party No. 2/informant for facing trial on the strength of the deposition of the witnesses, indicating that the deceased was killed at the hands of the informant himself for property dispute. The Trial Court rejected the aforesaid application, but without referring to the statement made by P.Ws. 7 and 8, who indicated that they had heard from amongst the crowd that the deceased had been burnt by the opposite party No. 2/informant.

The petitioner, thereafter, approached this High Court *vide* Cr. Revision No. 1392 of 2008 and challenged the aforesaid order. A Bench of this Court by order dated 17.11.2011 set-aside the aforesaid order of rejection and remitted the case back for giving a fresh consideration after taking into account the deposition of P.Ws. 7 and 8, *viz.* Ganesh Paswan and Bablu Paswan respectively. After the aforesaid remand, the Trial Court gave a re-look at the matter and came to the conclusion that the statements of P.Ws. 7 and 8 were not sufficient for summoning the opposite party No. 2 for facing trial along with other accused persons.

The learned counsel for the State has also raised



an issue that such an application under Section 319 of the Cr.P.C. cannot be filed at the instance of one of the accused persons, who is himself facing trial in the aforesaid matter.

Be that as it may, the Trial Court after going through the deposition of P.Ws. 7 and 8, who have only stated that they heard from the crowd that the deceased was killed for property by the opposite party No. 2, did not deem it appropriate to summon opposite party No. 2 to face trial. Any statement coming during the course of deposition from the mouth of witnesses would not require the Trial Court to summon such a person, unless the evidence is so strong that summoning of the aforesaid person would be found to be necessary by the Trial Court for a just decision of the case.

No interference is required with the order impugned.

The petition is, thus, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

U		T	
---	--	---	--

