

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42873 of 2018

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1. Nageshwar Jha, Son of Late Janardan Jha,
2. Manoj Kumar Jha, Son of Sri Nageshwar Jha, Both residents of Village-
Bijwar, P.S.- Mahishi, District- Saharsa.

.... Petitioners

Versus

1. The State of Bihar.
2. Fulkant Choudhary, S/o Sri Dinesh Choudhary, Resident of Village-
Parari, P.S.- Bangaon, District- Saharsa.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Atul Kumar Pandey

For the Opposite Party/s : Mr. Sri Ram Priya Saran Singh

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 25-10-2018 Heard learned counsel for the parties and
perused the records.

This application has been preferred calling for
an interference with the order dated 16.05.2018 passed in
Cr. Revision No. 25/2018 passed by learned Presiding
Officer, Fast Track Court, Saharsa by which the learned
Presiding Officer, Fast Track Court, Saharsa has been
pleased to uphold the order dated 14.09.2017 passed by
learned Judicial Magistrate, 1st Class, Saharsa in
Complaint Case No. 133C/2010.

By the impugned order the learned Judicial
Magistrate had been pleased to reject the application
under Section 311 of the Code of Criminal Procedure (in



short the “Cr.P.C.”) filed on behalf of the accused-petitioners, who at the fag end of the matter, had tried to invoke jurisdiction of the court under Section 311 Cr.P.C. to direct that the signature appearing on a sale deed be compared with the admitted signature appearing on the other documents.

Learned counsel for the petitioners submits that in fact both the court below could not appreciate that the examination of the signatures on the documents was required in the interest of justice, and, therefore, invocation of the power of the court under Section 311 Cr.P.C. was fully justified.

On the other hand, learned counsel representing the State submits that Section 311 Cr.P.C. is made to advance the course of justice and not to fill in the gap of the case of the parties. In the present case, it is submitted that the statement of the accused was recorded under Section 313 Cr.P.C. as back as on 19.01.2015, and thereafter the evidence was closed. It is submitted that the case was fixed, thereafter for argument. The argument of the complainant side was also closed on 24.01.2017, it is only thereafter on 21.02.2017 the petition under Section



311 Cr.P.C. was filed.

Learned counsel therefore submits that filing of the petition at the belated stage when the argument of the complainant side had also come to an end is nothing but an attempt to delay the disposal of the case.

Having heard learned counsel for the parties, and perusal of the records, this court finds substance in the submission of the learned counsel representing the State. The statement of the accused was recorded on 19.01.2015. Thereafter the evidence was closed and the case was fixed for argument. Admittedly on 24.01.2017, argument of the complainant was closed. It is, thereafter that the present petition came to be filed on behalf of the accused.

This court also finds substance in the submission of learned counsel for the State that provision of Section 311 Cr.P.C. is to be invoked in the interest of justice for certain clarifications but not for giving an opportunity to one of the parties to improve upon his case or to do an exercise to fill up the gap in their case. This court does not find any merit in the present application. Both the court below have passed the impugned order giving reasons thereof and in course of hearing no



perversity with the order could be pointed out.

This application is thus disposed off.

(Rajeev Ranjan Prasad, J)

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