

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46618 of 2017

Arising Out of PS.Case No. -147 Year- 2013 Thana -DANDKHORA District- KATIHAR

=====

Sakuntala Devi wife of Sri Ramjee Sah, resident of Village- Shivganj, Souria, P.S-
Dandkhora, District- Katihar.

.... Petitioner

Versus

1. The State of Bihar
2. Bangali Kewat Son of Sri Dhaniklal Kewat
3. Bhoraj Kewat Son of Late- Jageshwar Kewat
4. Kishun Kewat Son of Late- Jageshwar Kewat
5. Munna Kewat Son of Late- Gulo Kewat
6. Rajesh Kewat Son of Sri Bhoraj Kewat
7. Anil Kewat Son of Sri Bhoraj Kewat
8. Pannelal Kewat Son of Late- Nanku Kewat
9. Geeta Devi Wife of Sri Bangali Kewat
10. Puniya Devi Wife of Sri Pannelal Kewat
11. Laliya Devi Wife of Sri Dhaniklal Kewat
12. Daiya Devi, Wife of Late- Gulo Kewat,

All resident of Village- Shivganj, Souria, P.S.- Dandkhora, District- Katihar.

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Amit Kumar Anand, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-06-2018

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

2. By way of instant application under Section 482 of the



Code of Criminal Procedure (for short 'CrPC'), the petitioner has prayed for quashing the order dated 11.08.2017 passed by the learned Additional Sessions Judge, IIIrd, Katihar in Session Trial No. 348 of 2014 arising out of Dandkhora P. S. Case No. 147 of 2013 whereby and whereunder the learned Additional Sessions Judge has rejected the petition preferred by the petitioner under Section 311 of the CrPC.

3. The petitioner happens to be the informant of Dandkhora P. S. Case No. 147 of 2013 registered for the offences under Sections 341, 323, 448, 504, 506 and 379 read with 34 of the Indian Penal Code.

4. On completion of investigation, the police submitted charge-sheet *inter alia* under Section 307 read with 34 of the Indian Penal Code and, thus, after taking cognizance of the offence and supplying documents to the accused under Section 207 of the CrPC, the case was committed to the court of session for trial. In course of trial, all the charge-sheeted witnesses were examined, prosecution case was closed and the statements of the accused was recorded and the matter was fixed for recording statement of the accused persons under Section 313 of the CrPC. At this stage, the informant filed a petition for summoning one Ramjee Sah, son of late Baijnath Sah in exercise of powers under Section 311 of the



CrPC in the interest of justice as said Ramjee Sah was one of the injured in the alleged incident.

5. It is submitted by the learned counsel for the petitioner that the court below rejected the application preferred by the petitioners on erroneous ground. The next contention of the petitioner is that examination of Ramjee Sah is essential for just decision of the case and in the interest of justice, the court ought to have summoned him in exercise of power conferred under Section 311 of the CrPC.

6. Learned counsel for the State opposed the prayer made by the petitioner. He has submitted that from the order impugned, it would appear that the petition filed by the petitioner under Section 311 of the CrPC for summoning one Ramjee Sah was without any substance and, thus, the trial court rightly rejected the same.

7. I have heard learned counsel for the parties and carefully perused the record.

8. Section 311 of the CrPC vests power in the court to summon any person as a witness or examine any person in attendance though not summoned as a witness at any stage of any inquiry, trial or other proceeding. The scope and object of Section 311 of the CrPC is to enable the court to find out the truth and render a just decision. The discretion conferred upon the court has



to be exercised to prevent failure of justice.

9. As far as instant case is concerned, from perusal of the order impugned itself, it would transpire that Ramjee Sah was not examined by the police in course of investigation. The petitioner had filed a photocopy of prescription of medical treatment of said Ramjee Sah on which the date of treatment is mentioned as 02.11.2014 in order to establish that Ramjee Sah was also injured in the said incident. However, according to the prosecution case, the occurrence had taken place on 16.12.2013. The prescription of of Ramjee Sah produced before the trial court could not be connected in any manner with the offence alleged. Considering this aspect of the matter, the trial court rejected the application filed by the petitioner.

10. Apart from the fact that there is no illegality in the order impugned, I find that the petitioner had no *locus standi* in the matter. In the trial before the court of session, it is the public prosecutor who has to conduct the case. The informant has got no right to prosecute the criminal trial himself. At best, he could have assisted the public prosecutor in trial of the case and with the permission of the court, the informant has been conferred with a right to file written argument under Section 314 of the CrPC at the conclusion of trial. Thus, the petition filed by the petitioner before



the court below itself was not maintainable.

11. In view of the discussions made above, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.06.2018
Transmission Date	25.06.2018

