

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11857 of 2018

Arising Out of PS.Case No. -182 Year- 2005 Thana -SAKRI District- MADHUBANI

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1. Dr. Vinay Kumar Jha, son of Late Jugal Kishore Jha,
 2. Minoo Devi @ Mina Jha, wife of Dr. Vinjay Kumar Jha,
Petitioner Nos. 1 and 2 are residents of village- Jonki, Mahinathpur, Police
Station- Basopatti, District- Madhubani.
 3. Shilbant Choudhary @ Shilbant Kumar Choudhary @ Chunnu Choudhary, son
of Binod Kumar Choudhary, resident of village and Police Station- Nehra,
District- Darbhanga.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy, Advocate
For the State : Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 18-08-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing the order dated 01.02.2017 by which the petition filed by petitioners for issuing summons to N.K.Tiwary and Dilip Kumar Jha whom the petitioners wanted to examine as defence witnesses has been rejected.

2. The trial court vide impugned order dated 01.12.2017 passed in Sessions Trial No.229 of 2008 rejected the prayer on two grounds. Firstly, because the addresses of the witnesses whom the petitioners wanted to be examined as defence witnesses were not given and, secondly, because the case was pending for defence evidence. The court was of the view that if the petitioners are of the



opinion that those witnesses were required to be examined as defence witnesses, they were free to examine them.

3. Learned counsel for the petitioners has challenged the aforestated impugned order dated 01.12.2017. He contended that once a petition was filed, the court had no option but to issue summons to those witnesses.

4. Learned counsel for the State submitted that the petition filed in the court below as contained in Annexure-2 to this petition was quite vague. Neither the provision of law under which it was filed nor the complete address of the witnesses whom the petitioner wanted to be examined as defence witnesses was mentioned in the petition. He pleaded that the order impugned does not suffer from any illegality or irregularity.

5. I have heard learned counsel for the petitioners and the State and carefully perused the record.

6. On perusal of the application filed by the petitioners in the court below, I do find that completely vague application was filed by the petitioners, who are facing trial for an offence punishable, *inter alia*, under Section 302 of the Indian Penal Code, praying therein to examine one N.K.Tiwary and one Dilip Kumar Jha as defence witnesses. Neither the provision of law under which the application was filed nor the complete address of the witnesses whom the defence wanted to be examined as defence witnesses nor the purpose for



which their examination during trial was necessary was mentioned in the petition.

7. Learned counsel for the petitioners has not brought any provision of law to the notice of this Court, which would mandate the court to summon any witness whom the defence wants to be examined as defence witnesses. Moreover, in absence of the complete address of such witnesses, no summons could have been issued. Furthermore, in absence of the purpose and requirement for examination of any witness having been disclosed in the application, the court would not summon any witness even as court witness.

8. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	N.A.F.R.
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