

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6887 of 2018

Arising Out of PS.Case No. -55 Year- 2001 Thana -CHANDI District- NALANDA
(BIHARSHARIFF)

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Dilip Yadav Son of Bahori Yadav, Resident of Village-Rupanbigha, Police Station-Tharthari, District-Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. Shyama Devi @ Most. Shyam Devi Wife of Late Duli Chand, Resident of Village-Rupanbigha, Police Station-Tharthari, District-Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

3 19-09-2018 Heard learned counsel for the petitioner and learned counsel for the State.

Perused the report dated 07th September of 2018 submitted by the learned 1st Additional District & Session Judge, Hilsa, Nalanda.

This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C') has been filed by the petitioner for setting aside the order dated 22.12.2017 passed by the learned 3rd Additional Session Judge, Hilsa Nalanda in Sessions Trial No. 416 of 2013 arising out of Chandi (Tharthari) P.S. Case No. 55 of 2001 lodged under Section 302 and 201 read



with 34 of the Indian Penal Code whereby the learned 3rd Additional Session Judge has allowed the petition dated 18.04.2016 filed by the opposite party no. 2, namely, Shyama Devi under Section 311 of the Cr.P.C to recall the witnesses, namely, Rukmani Devi (P.W. 1) and Shyama Devi (P.W. 6).

The report submitted by the court below would show that the aforesaid two witnesses were examined by the court below on 07.09.2018 upon their recall.

Since Section 311 of the Cr.P.C gives discretionary power to the court to summon any witness or recall any witness at any stage of the case, no illegality can be found with the impugned order whereby the aforesaid two witnesses were recalled and their evidence was recorded on 07.09.2018.

In that view of the matter, I see no merit in this application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/Sneha

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