

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40535 of 2019

Arising Out of PS. Case No.-112 Year-2011 Thana- KORHA District- Katihar

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BISHWANATH SINGH Son of Late Shib Prasad Singh Resident of Village -
Bajnathpur (Simariya), P.S.- Korha, Distt - Katihar.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Md. Ataur Rahman Son of Late Md. Saiyab Ali Resident of Village -
Bajnathpur (Simariya), P.S.- Korha, Distt - Katihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate
For the Opposite Party/s : Mr. Nand Kishore Prasad

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 09-07-2019 The petitioner has challenged the order dated 01.05.2018 passed by the learned Additional Sessions Judge - III, Katihar in connection with Sessions Trial No. 576 of 2013 arising out of Korha P.S. Case No. 112 of 2011, whereby the petition filed for recall of the informant for further cross-examination has been rejected.

The trial court after having found that 13 witnesses have been examined in the case, rejected such a request on the ground that no cogent reason was given by the petitioner for summoning the informant after his examination and cross-examination in detail, which would enable the court to come to a just decision in the case. The only question which according to the petitioner



is required to be asked from the informant/Ataur Rahman, who is sought to be recalled, is whether a settlement has been arrived at in this case or not.

A case of murder is not compoundable at all.

No good ground has been made out by the petitioner for this Court to interfere with the order dated 01.05.2018.

The powers under Section 311 Cr.P.C. could be invoked at any stage of the case before the judgment, provided the court is of the view that the evidence would be essential for the just decision of the case. As noted above, the purpose of recalling the informant was not acceptable to the court as a ground for arriving at a just decision in a case of murder.

There is no merit in this petition. The petition is dismissed.

(Ashutosh Kumar, J)

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