

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40848 of 2019

Arising Out of PS. Case No.-122 Year-2008 Thana- KHIJARSARAI District- Gaya

Ashok Sharma @ Ashok Kumar Ranjan, aged about 49 years, male, Son of Late Inder Deo Singh, Resident of Village-Udhowar, P.S.-Khizer Sarai, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shambhu Kumar Bhardwaz, Son of Shiv Nandan Singh, Village-Udhowar P.S-Khizersarai, District-Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bindeshwar Prasad Singh, Adv.
For the Opposite Party/s : Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 16-07-2019 The petitioner has challenged the order dated 30.04.2019 passed by the learned Judicial Magistrate, Ist Class, Gaya in connection with G.R. No. 2776 of 2008 (Trial No. 857 of 2017), whereby the petition preferred on behalf of the prosecution for summoning of witnesses under Section 311 of the Code of Criminal Procedure has been allowed.

2. From the perusal of the order impugned, it appears that twice the provision of Section 311 of the Code of Criminal Procedure was invoked and two witnesses were examined and case was closed for prosecution evidence on such occasions. The case, thereafter, was transferred to the



Court of learned Judicial Magistrate, who has passed the order impugned. The Court below was of the view, after going through the records, that the processes for compelling the attendance of the witnesses had not been exhausted and the case for prosecution was closed. The Court below also came to the conclusion that for a just decision of the case, examination of the witnesses on behalf of the prosecution was essential. Though the Court below has not noted down the reason for saying so; nonetheless if no proper step has been taken by the predecessor Court for summoning witnesses by exhausting all the processes under the Code of Criminal Procedure, the present order allowing the application of the prosecution, summoning witnesses on behalf of the prosecution, cannot be faulted with.

3. This Court does not find the order impugned to be unreasonable or against law.

4. The petition is thus dismissed.

(Ashutosh Kumar, J)

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