

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32174 of 2018

Arising Out of PS. Case No.-25 Year-1995 Thana- DANAPUR District- Patna

Manoj Kumar son of Late Deo Saran Prasad resident of Village - Shahpur
Thakurbari, Police Station - Sahpur, District - Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr. Brahma Deo Prasad, Advocate

For the Opposite Party/s : Mr. Narsingh Tanti

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 19-07-2019 The petitioner has challenged the order dated 03.04.2018 passed by the learned Additional Sessions Judge VII, Danapur, Patna in Sessions Trial No. 751 of 1997 arising out of Danapur P.S. Case No. 25 of 1995 whereby prayer made on behalf of defence/petitioner for recall of P.Ws. 4 and 5 for their further cross-examination has been rejected.

The additional prayer of the petitioner/defence for summoning the District Vector Borne Disease Control Officer, Patna for his deposition also has been rejected by the same order.

It appears from the records that after the deposition of P.W. 4 and P.W. 5 was recorded, an affidavit was filed by them that they had not seen the occurrence. It is only for confirmation of the aforesaid



fact that a prayer has been made before the court invoking Section 311 Cr.P.C. for recall of the aforesaid witnesses.

The trial court has rightly declined to accede to such a prayer.

No fault could be found with the aforesaid order of the trial court. It further appears that the aforesaid application has been filed in private capacity and not through the agency of the State, which ground also was taken by the trial court in rejecting the prayer of the petitioner in view of the provisions contained in Section 301 Cr.P.C.

The purpose for summoning another witness at the trial is also not far to seek. The dominant motive appears to be pitch in evidence of alibi.

This Court does not find any good reason to interfere with the order impugned.

The petition is dismissed.

(Ashutosh Kumar, J)

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