

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44569 of 2019

Arising Out of PS. Case No.-163 Year-2013 Thana- MAJHAULIA District- West Champaran

1. Shaheb Yadav @ Digvijay Prasad Yadav, son of Suresh Prasad Resident of Village - Joukatiya, P.S.- Majhauliya, Dist.- West Champaran Bettiah.
2. Guddu Yadav @ Ravikar Prasad Yadav Son of Suresh Prasad Resident of Village - Joukatiya, P.S.- Majhauliya, Dist.- West Champaran Bettiah.
3. Bhim Yadav Son of Lal Babu Yadav Resident of Village - Joukatiya, P.S.- Majhauliya, Dist.- West Champaran Bettiah.
4. Subhash Yadav Son of Late Shivraj Yadav Resident of Village - Joukatiya, P.S.- Majhauliya, Dist.- West Champaran Bettiah.
5. Ekballi Yadav Son of Jangi Yadav Resident of Village - Joukatiya, P.S.- Majhauliya, Dist.- West Champaran Bettiah.
6. Ajay Yadav Son of Late Jagdeo Yadav Resident of Village - Joukatiya, P.S.- Majhauliya, Dist.- West Champaran Bettiah.
7. Lal Babu Yadav Son of Late Bharoshi Yadav Resident of Village - Joukatiya, P.S.- Majhauliya, Dist.- West Champaran Bettiah.
8. Smt. Awadh Devi Son of Suresh Prasad Resident of Village - Joukatiya, P.S.- Majhauliya, Dist.- West Champaran Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rima Kumari D/o Bhagat Sahni Resident of Village - Joukatiya, Chhotka Malahi Tola, P.S.- Majhauliya, Dist.- West Champaran Bettiah.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bikramdeo Singh, Advocate
		Mr. Sada Nand Roy, Advocate
For the Opposite Party/s :		Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 02-09-2019 Heard Mr. Bikramdeo Singh, learned counsel for

the petitioners and Mr. Ram Priya Sharan Singh, learned

APP for the State.

The petitioners have challenged the order dated



14.06.2019 passed by the learned 1st Additional Sessions Judge, Bettiah, West Champaran in connection with Sessions Trial No. 1092 of 2013, arising out of Majhauriya P.S. Case No. 163 of 2013 whereby the prayer made on behalf of the petitioners for recalling P.W.-6, the Investigating Officer of the case for his further examination, has been rejected.

It has been submitted on behalf of the petitioners that even though the Court below was made known the fact that at the time of examination and cross-examination of P.W.-6, the petitioners/defence did not have relevant papers with them and therefore relevant questions were not asked from P.W.-6. It is in this circumstance that a prayer was made by the defence for recall of P.W.-6.

The prayer has been rejected by the Court below on the ground that the petitioners did not ask for recall at the appropriate time; rather they waited for the entire prosecution witnesses to be examined and at the



stage when the case was fixed for recording of defence witnesses.

The Court below has also looked into the provisions of Section 311 of the Code of Criminal Procedure and has found that such a prayer has been made by the petitioners/defence on absolutely weak and vague grounds.

The Court below is rightly of the view that the power under Section 311 of the Code of Criminal Procedure cannot be exercised in the absence of any cogent ground having been put up by the defence for recall of P.W.-6.

This Court does not find any fault with the order impugned.

The petition is dismissed.

(Ashutosh Kumar, J)

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