

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.4119 of 2016**

Arising Out of PS. Case No.-34 Year-2005 Thana- DHANAHA District- West Champaran

Abhay Kumar Mishra @ Abhay Mishra S/o Rabindra Mishra Resident of  
village - Madhubani, P.S. Dhanaha, District - West Champaran

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Kedar Nath Gosai S/o Late Ram Subhag Nath Gosai Resident of village -  
Madhubani, P.S. Dhanaha, District - West Champaran

... .. Opposite Party/s

**Appearance :**

|                          |   |                                   |
|--------------------------|---|-----------------------------------|
| For the Petitioner/s     | : | Mr. Sanjeev Kumar, Advocate       |
| For the Opposite Party/s | : | Mr. Ram Priya Sharan Singh, APP   |
| For the Informant        | : | Mr. Milind Kumar Mishra, Advocate |

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

4      14-11-2019                      Heard Mr. Sanjeev Kumar, learned advocate for  
  
the petitioner, Mr. Milind Kumar Mishra for the informant  
  
and Mr. Ram Priya Sharan Singh for the State.

The present petition has been filed against the  
order dated 22.12.2015 passed by the learned 1<sup>st</sup>  
Additional Sessions Judge, Bagaha in connection with  
Sessions Trial No. 685 of 2007, arising out of Dhanaha  
P.S. Case No. 34 of 2005, whereby the application  
preferred by the petitioner for his discharge for the  
offence under Section 364 of the Indian Penal Code has



been rejected.

The son-in-law of the informant who had gone to attend a programme in the village went missing and the informant suspected the hands of the father of the petitioner who had some dispute with his son-in-law. During the course of investigation, only suspicion was raised against one Rabindra Mishra and his sons that they may have had their hand in kidnapping the victim.

It has been urged on behalf of the petitioner that merely because there was suspicion in the mind of the informant, the petitioner could not have been put to trial. Apart from this, the main suspicion lay on the father of the petitioner but because the petitioner stays under the same roof with his father, he too has been made accused in this case.

Considering this aspect of the matter, a bench of this Court on 17.09.2018 had issued notice to opposite party no. 2 and called for the case diary and had stayed further proceedings before the court below.



While passing the aforesaid order dated 17.09.2018, the court was not in the know of the fact that the trial had already begun and four witnesses had been examined.

Today, Mr. Milind Kumar Mishra, learned advocate for the informant has placed on record the deposition of four witnesses. A perusal of the deposition of the P.Ws. examined so far indicates that the accusation against the petitioner is only on the basis of suspicion. Some of the witnesses examined at the trial have not supported the prosecution version and have been declared hostile.

However, considering the fact that four witnesses have been examined, this Court is of the view that it would not be proper to halt the trial midway.

For the aforesaid reason, this petition is dismissed but with a direction to the trial court that every effort should be made by it to conclude the proceeding within a period of six months of production/presentation of a copy of this order.



The petition is dismissed with the aforesaid  
observation.

**(Ashutosh Kumar, J)**

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