

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55654 of 2019

Arising Out of PS. Case No.-54 Year-2015 Thana- HATHIDAH District- Patna

NAGESHWAR PRASAD Son of Late Brahamdev Prasad Resident of Village
- Hathidah, Dargahi Tola, P.S.- Hathidah, Dist.- Patna. Petitioner/s
Versus

THE STATE OF BIHAR Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Jha, Adv

For the Opposite Party/s : Mr.Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 06-09-2019

Heard learned counsel for the parties.

2. Petitioner is informant of Hathidah P.S.Case No.54 of 2015 corresponding to S.Tr.No.621 of 2016 pending before the court of learned A.D.J.-II, Barh, Patna.

3. The trial relates to offences under Sections 307 I.P.C and other ancillary offences of the Indian Penal Code. During trial, all the prosecution witnesses were already examined including the petitioner and the Investigating Officer of the case.

4. Thereafter, the petitioner filed a petition before the learned court below to mark exhibit two materials; one was photograph of the petitioner showing that he was in injured condition and another was clothes said to be worn by the petitioner at the time of occurrence which were pulled with blood.

5. By the impugned order dated 12.04.2019, prayer has been turned down on the ground that the petitioner has not



mentioned about the bloodstained clothes in the protest petition filed in this case. For the first time he said about the bloodstained clothes in his evidence in court, however, did not produce the aforesaid material. Hence, the same cannot be marked as exhibit.

6. To prove the charge under Section 307 I.P.C., it is not necessary to produce and prove the bloodstained clothes especially when oral evidence of I.O. and other witnesses is there that the petitioner had sustained murderous assault, blood was coming from the wounds and clothes were wetted with blood nor the photograph would serve any purpose. Therefore, in absence of those materials, no failure of justice or miscarriage of justice is going to be caused nor there is any specific provision in the Code of Criminal Procedure to produce, for the first time, the material exhibits during course of the trial.

7. I do not find any merit in this application. Accordingly, it stands disposed of.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
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