

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76638 of 2019

Arising Out of PS. Case No.-196 Year-2006 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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PHULENDRA KUMAR @ Fulendra Kumar Son of Late Mahavir Mandal
Resident of Village - Sanjhauti (Goriyami), P.S.- Alauli, Dist.- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Fulwati Devi W/o Pradip Narayan Yadav Resident of Village - Sanjhouti, P.S.- Alauli, Dist.- Khagaria.
3. Ranju Devi W/o Arbind Yadav Resident of Village - Sanjhouti, P.S.- Alauli, Dist.- Khagaria.
4. Kiran Devi W/o Bijendra Yadav Resident of Village - Sanjhouti, P.S.- Alauli, Dist.- Khagaria.
5. Arbind Yadav Son of Pradip Narayan Yadav Resident of Village - Sanjhouti, P.S.- Alauli, Dist.- Khagaria.
6. Bijendra Yadav Son of Pradip Narayan Yadav Resident of Village - Sanjhouti, P.S.- Alauli, Dist.- Khagaria.
7. Ashok Yadav Son of Pradip Narayan Yadav Resident of Village - Sanjhouti, P.S.- Alauli, Dist.- Khagaria.
8. Pradip Narayan Yadav Son of Late Mahavir Yadav Resident of Village - Sanjhouti, P.S.- Alauli, Dist.- Khagaria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bhim Kumar Yadav
For the Opposite Party/s : Mr.Nityanand

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 10-12-2019

Heard learned counsel for the petitioner and learned APP
for the State.

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), has been preferred for quashing the order dated 29.05.2018 passed by learned Chief Judicial Magistrate, Khagaria, in connection with



Complaint Case No. 196C/2006 by which the learned Magistrate has rejected the petition dated 21.02. 2018 filed on behalf of petitioner under Section 244(2) of the Cr. P.C. as also the order dated 08.07.2019 passed by learned Sessions Judge, Khagaria in Cr. Rev. No. 51 of 2018 whereby he has affirmed the order passed by the leaned Magistrate on 29.05.2018.

It is submitted by the petitioner's counsel that for valid reasons the witness could not be produced on the date fixed. The petitioner filed application under Section 244(2) of the Cr. P. C. on 21.02.2018 i.e. just next date, after the date fixed for examination of witness No.2. The same has been rejected by the Court below. Accordingly, this application has been filed seeking quashing of the said order and for permission to produce the witness No.2.

The Court below has considered the entire issues, in detail. The facts are such that last witness PW-4, viz. Fulendra Kumar was examined on 07.01.2009 after charge and thereafter the case record remained pending for evidence of witness till 02.02.2018.

It is, under such circumstances, where the matter was kept protracted for at least about 09 years that the Court below has



closed the evidence and the matter has been taken to the next stage.

The petitioner's counsel submits that one opportunity should be granted and even if, cost is imposed, the complainant is willing to bear the same. The reasons assigned in the order dated 08.07.2009, by the Sessions Judge, Khagaria, in the order passed in Cr. Rev. No. 51 of 2018, is a well considered and reasoned order.

Having regard to the long delay, the Court below has rightly proceeded with the matter further and rejection of the petitioner's application under Section 244(2) of the Cr. P. C. is just and valid, in the fact and circumstances of the case, and requires no interference.

The application is, accordingly, dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.12.2019
Transmission Date	13.12.2019

