

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78932 of 2019

Arising Out of PS. Case No.-6 Year-1999 Thana- PRATAPGANJ District- Supaul

SANTOSH NAYAK @ SANTOSH KUMAR NAYAK, aged about 48 years,
Son of Sri Kapildeo Naik, Resident of Bhwanipur Dakshin, Ward No.5, P.S.-
Pratapganj, District-Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Nand Kishore Mahto, Son of Late Matuk Lal Mahto, Resident of Village-
Bhawanipur Dakshin, Ward No.5, P.S.-Pratapganj, District-Supaul.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amrit Abhijat, Adv.
For the Opposite Party/s : Mr.Shailendra Kumar Singh (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

2. 03-12-2019 This criminal miscellaneous application has been

filed under Section 482 of Cr.P.C. for quashing the order dated
25.07.2019 passed in Criminal Revision No. 06 of 2018 passed
by learned Sessions Judge Supaul, dismissing the revision as not
maintainable filed against order dated 28.05.2019 passed by
learned Judicial Magistrate, 1st Class Birpur in G.R. No. 99 of
1999 arising out of Pratapganj P.S. Case No. 06 of 1999 by
which application of petitioner dated 13.07.2016 filed under
Section 311 of Cr.P.C. for recall of witnesses to get the
documents filed by defence to be marked as exhibits was
rejected.

Informant had submitted a written complaint giving



rise to Pratapganj P.S. Case No. 06 of 1999 dated 07.03.1999 instituted under Sections 147, 148, 149, 448, 341, 323, 324 and 379 of I.P.C. against the petitioner in which it was alleged that informant are in possession over a land and while he was inside his medicine shop accused/petitioners variously armed entered his house and took away articles kept inside his house.

After investigation police submitted chargesheet against petitioner upon which court took cognizance and charges were framed on 17.03.2001 and evidence was led by prosecution and statement of the accused was also recorded on 27.10.2014 and case was posted for evidence of defence in which 11 documents running in 51 pages was filed as documentary evidence on 13.07.2016 but same was not marked as exhibit by the trial court as such petitioner filed a petition dated 06.02.2019 under Section 311 of Cr. P.C. for re-call of witnesses which was dismissed by the trial court on the ground that petition was filed after more than 2 years of closing of defence evidence and documents are not essential or relevant as same concerns land dispute and accused is facing trial of acid attack.

After hearing the parties and perusing the order passed by the trial court in which the trial court has observed



that the case is at the stage of final argument and present petition has been filed only to linger the matter and no relevancy has been shown by the petitioner of the aforesaid documents and the trial court rejected the petition filed by petitioner by order dated 28.05.2019 against which petitioner preferred Criminal Revision no. 06 of 2018 which was also dismissed on 25.07.2019 as being non-maintainable by order passed by the Sessions Judge, Supaul. The re-call of witness under Section 311 of Cr.P.C. cannot be made in a routine manner and has to be exercised under exceptional and extraordinary circumstances, as such, the trial court has rightly rejected the petition of petitioner.

This court does not find any infirmity or error in the order passed by the court below and accordingly present criminal miscellaneous petition is dismissed.

(S. Kumar, J)

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