

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80359 of 2019

Arising Out of PS. Case No.-3 Year-2013 Thana- ANDHRAMATH District- Madhubani

HARE RAM YADAV @ HARE RAM KUMAR YADAV son of Late Ram Chandra Yadav Resident of Village - Arnama, P.S.- Andhara Math, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Sanjay Kumar Yadav Son of Ghoghan Yadav Resident of Village - Arnama, P.S.- Andhara Math, District- Madhubani.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha
For the Opposite Party/s : Mr.Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 17-12-2019 Heard the parties.

This application has been filed against order dated 27.6.2019 passed in Sessions Trial No.525 of 2013 + 650 of 2013 passed by the learned Addl. District and Sessions Judge -VI, Madhubani, whereby and whereunder the learned Addl. Sessions Judge was pleased to reject the petition filed by the petitioner who is accused in that case for issuing direction to the prosecution to examine the charge-sheeted witnesses which they are not examining.

Facts in short is that a case has been lodged against the petitioner and other accused persons with allegation of assault to the informant and snatching of Rs.5,000/- and on that



basis Andhara Math P.S.Case No.3 of 2013 was registered, police after investigation, submitted final form not finding the case true against the petitioner but the cognizance has been taken and ultimately the case has been committed to the court of Sessions Judge for trial and during the pendency of the examination of the witnesses petition dated 22.11.2018 has been filed by the petitioner for issuance of direction to the prosecution to examine all the remaining charge-sheeted witnesses and merely filing an application by the informant that they have been gained over is not sufficient not to examine them and the case of the petitioner shall be prejudiced for non examination of them. A rejoinder to the above petition was filed by the prosecution and thereafter the learned trial court vide impugned order dismissed that petition on the ground that the prosecution has to prove it on its own case .

Grounds for quashing is that his case shall be prejudiced for non examination of those witnesses and merely showing that they have been gained over is not sufficient for discarding his evidence as such the petitioner has filed this application for quashing of the impugned order.

On the other hand, the learned APP has opposed this application on the ground that it is always prerogative of the



APP to examine the witnesses as per the prosecution case and they can not be forced to examine all the witnesses especially in the circumstances when the petition has been filed by the informant that they have been gained over as it is always open to the accused person to get them examined as their witnesses also .

As such, I find no merit in this application.
Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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