

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82167 of 2019

Arising Out of PS. Case No.-168 Year-2011 Thana- RAMPUR District- Gaya

Nelly Ekka Wife of Johny Mathyu Resident of House No. 121, Asha Singh More, A.P. Colony, P.S. Rampur, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pawan Kumar Padari Son of Shiv Ram
3. Mamta Kumari Wife of Pawan Kumar Padari
Both Resident of Mohalla - Ashok Nagar, P.S. - Chandrosi, Tirki, P.S.- Tekari, District - Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 17-12-2019

Heard learned counsel for the parties.

2. Petitioner is informant of Rampur P.S. Case No.168 of 2011 registered for the offences under Sections 341, 406, 323, 504/34 of the Indian Penal Code against Opposite Party Nos.2 and 3.

3. By the impugned order dated 05.03.2019 the prosecution evidence was closed as the prosecution did not produce any evidence since last one year after allowing the application under Section 311 Cr.P.C.

4. The petitioner challenged the aforesaid order before the learned Sessions Judge, Gaya, in Cr. Revision No.90



of 2019, which was also dismissed as devoid of any merit on 03.08.2019. Both the orders are under challenge before this Court.

5. Learned counsel for the petitioner submits that only Doctor and Investigating Officer is to be examined in this case and it is business of the prosecutor to bring those witnesses.

6. However, it is evident that for examination of Doctor, who was not a charge sheet witness, the informant had made prayer before the learned Court-below, under Section 311 Cr.P.C., which was allowed by the Court-below one year back. In the circumstance, it was the duty of the informant also to bring that witness which was not a charge sheet witness. The offences alleged are triable as summons case. In a summons case registered in the year 2011, the trial has dragged for eight years which is violative of the fundamental right of the accused. Therefore, this Court is not inclined to interfere with the impugned orders.

7. Accordingly, this application stands dismissed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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