

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77900 of 2019

Arising Out of PS. Case No.-124 Year-2010 Thana- MANIYARI District- Muzaffarpur

1. BASHISHTH RAI Son of Jawahir Rai Resident of Village - Madhopur, P.S.- Maniyari, Dist.- Muzaffarpur.
2. Arvind Rai Son of Jawahir Rai Resident of Village - Madhopur, P.S.- Maniyari, Dist.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Pandey
For the Opposite Party/s : Mr.Ajay Kumar Jha

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 28-01-2020

Heard the parties.

2. This application under Section 482 of Cr.P.C. has been filed on behalf of petitioner for quashing the order dated 23.07.2019 passed in Session Trial No. 765 of 2012 (arising out of Maniyari P.S. case No. 124 of 2010) passed by learned 6th Additional Sessions Judge, Muzaffarpur by which the court below has rejected the petition dated 22.06.2019 filed by petitioner to admit in evidence electronic record i.e. compact disc and pen drive produced on behalf of defence.

3. Petitioner filed an application dated 22.06.2019 stating therein that case is fixed for defence evidence and petitioners filed electronic records i.e. C.D. one piece and pen



drive one piece and in the interest of justice it was necessary to admit these electronic records in evidence as it shows confessional statement of victim on 23.01.2019 and 25.01.2019 in which he has confessed that petitioners are innocent.

4. The petition filed by defence was objected by the prosecution that same is not maintainable and fit to be rejected. The electronic device and pen drive are concocted and not reliable and defence has not taken such plea earlier nor has put any question to witness regarding this fact.

5. Informant Seema Devi in her fardbeyan dated 29.09.2010 had alleged that Arbind Rai, Bashisth Rai, Jawahir Rai and three unknown accused had fired upon her son with intention to kill him and on hearing sound of firing people assembled there and accused fled away and on basis of said fardbeyan Maniyari P.S. Case No. 124 of 2010 was instituted under Section 324, 307, 447, 120B/34 of I.P.C. and 27 of Arms Act.

6. After investigation police submitted charge sheet against accused Arvind Rai and Bashisth Rai, upon which trial court took cognizance of the offence and case was committed on 12.12.2012 to the court of Session and charges were framed against accused Arvind Rai and Bashisth Rai under Section 307,



324, 447/34, 120B of IPC and 27 of the Arms Act on 25.09.2013 which was read over and explained to them but same was denied and they claimed to be tried.

Prosecution evidence was closed on 12.03.2019 and case was fixed for defence evidence and on 22.06.2019 said petition dated 22.06.2019 was filed to admit electronic record i.e. one C.D. and one pen drive in evidence in which victim Ravindra Kumar Yadav has confessed on 23.01.2019 and 25.01.2019 about innocence of petitioner.

6. The trial court has held that occurrence took place on 29.09.2010 and after passing of eight years eight months the alleged confession of victim which has been recorded in C.D. and pen drive is sought to be produced with a prayer to admit same in evidence, although same is not concerned with investigation of present case. Victim has been examined and cross-examined and thereafter discharged on 01.03.2017, as such, at this stage said C.D. and pen drive cannot be admitted in evidence. Accordingly the trial court rejected the application of petitioner dated 22.06.2019.

7. After hearing the parties and perusing the impugned order and materials available on record, this Court finds that defence is trying to delay the trial of case and present petition



was filed with said motive, as such, this Court does not find any infirmity or error in the order passed by the trial court and accordingly, criminal miscellaneous petition is dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.01.2020
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