

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72788 of 2019

Arising Out of PS. Case No.-71 Year-2013 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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Dilip Kumar Thakur @ Laddu Thakur Son of Late Asesawar Thakur @ Late
Asheshwar Thakur Resident of Village - Narayanpur, P.S.- Kanti, District -
Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Chandra Shekhar Anand
For the Opposite Party/s : Mr.Lalan Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-03-2020 Petitioner, in the present case, is aggrieved by and

dissatisfied with the order dated 28.08.2019 passed in S.Tr.

No. 433/2017, arising out of Complaint Case No. C-

71/2013 by learned Additional Sessions Judge, III,

Muzaffarpur.

Learned counsel for the petitioner has assailed the

impugned order on the ground that the opinion of the

learned court below saying that petition under Section 311

Cr.P.C. has been filed at this stage only to fill up the lacuna

in the evidence in support of the case of

complainant/prosecution is not a correct opinion and

rejection of his application on the basis of such opinion

needs to be set-aside.



Learned counsel for the State submits that the prosecution wanted to produce Nagendra Ojha and Chitranjan Thakur as witness on the strength of an order of the court under Section 311 Cr.P.C. The learned court found that the complainant never raised this issue before initiation of trial, they were not named as witness in the complaint petition and after all the available witnesses in the complaint petition have been examined, the complainant has come with this petition. The two out of four witnesses have already been examined whereas two have died. The present application came to be filed.

Having heard learned counsel for the petitioner and the State and upon going through the impugned order this court is of the considered opinion that the learned court below is correct in taking the view that Nagendra Ojha and Chitranjan Ojha were not witness in the complaint petition, they were not produced at the stage of inquiry and/or at the stage of evidence before charge. The complainant never raised any issue with regard to them before initiation of trial and only after he had exhausted the witnesses named in the complaint petition he came out with the name of these two persons with sole intention to fill up the lacuna of evidence



in support of their case.

This court finds no reason to interfere with the impugned order. This application has, thus, no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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