

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1735 of 2019

Arising Out of PS. Case No.-379 Year-2016 Thana- BARAUNI District- Begusarai

1. GANESH DAS Son of Late Jugal Das Resident of Village - Asikpur, Garhara, P.S.- Barauni (Garhara), Distt - Begusarai.
2. Mahesh Das Son of Late Jugal Das Resident of Village - Asikpur, Garhara, P.S.- Barauni (Garhara), Distt - Begusarai.
3. Dinesh Das Son of Late Jugal Das Resident of Village - Asikpur, Garhara, P.S.- Barauni (Garhara), Distt - Begusarai.
4. Asha Devi D/o Late Sonelal Das Resident of Village - Asikpur, Garhara, P.S.- Barauni (Garhara), Distt - Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR THROUGH PRINCIPAL SECRETARY HOME
DEPARTMENT GOVT. OF BIHAR, PATNA Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Subodh Kumar
For the Respondent/s : Mr.Md. Nadim Seraj

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT

Date : 19-02-2020

Heard learned counsels appearing for the
parties.

The present writ application has been filed for
quashing the order dated 07.08.2019 passed by learned
Additional Sessions Judge III, Begusarai in Sessions Trial No.
371 of 2017, whereby and whereunder the application filed
by the informant under section 231/311 of the Code of
Criminal Procedure has been allowed, which as per the
petitioner is not only in violation of the Section 225/301(2)



Cr.P.C. but also in violation of Article 21 of the Constitution of India.

Learned counsel for the petitioner submits that the informant is not competent to file an application under section 231/311 Cr.P.C. for examining the witnesses of his choice and filing of such application is in violation of section 225/301(2) Cr.P.C. It is further submitted that a private counsel of informant cannot be allowed to supersede the Public Prosecutor. It is, accordingly, submitted that the order impugned allowing the application of the informant filed under section 231/311 Cr.P.C. is in gross disregard and violation of the provision under section 225/301(2) Cr.P.C. as also of several pronouncement of Hon'ble High Court as well as Hon'ble Supreme Court, and therefore, the same is fit to be quashed.

Learned counsel appearing for the State opposes the application and submits that there is no error in the order passed by the Court below as the counsel for the informant was competent to file such petition under section 311 Cr.P.C. in order to assist the Court. The petition filed by the petitioner has no merit and same is fit to be dismissed. However, the counsel for the informant may be directed to



act under the direction of the Public Prosecutor who shall conduct the case.

Considering the submissions advanced on behalf of the parties, this Court finds that the arguments made by learned counsel for the State has force. The Court below, after considering the entire facts and circumstances of the case specially the objection filed by the defence, has allowed the application of the informant filed under section 311 Cr.P.C. This Court finds no fault in the order passed by the learned Sessions Judge.

In view of the discussions made above, the writ application is dismissed with direction that the counsel for the informant will act under the direction of the Public Prosecutor who shall conduct the case.

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
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