

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87132 of 2019

Arising Out of PS. Case No.-389 Year-2016 Thana- BHABHUA District- Kaimur (Bhabua)

MAITRI DEVI, Female, aged about 50 years, Wife of Shiv Shankar Upadhyay, Resident of Village - Kohari, P.O.- Darauli, P.S.- Bhabua, District- Kaimur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mahendra Upadhyay, Son of Sri Krishna Upadhyay
3. Saraswati Devi Wife of Mahendra Upadhyay
4. Niraj Devi Wife of Surendra Upadhyay
O.P. Nos 2 to 4 are Resident of Village - Kohari, P.S.- Bhabua, District- Kaimur
5. Meera Devi, D/O - Mahendra Upadhyay,, W/O - Sachchidanand Upadhyay
Resident of Village - Dugulpurawa, P.S.- Ramgarh, District - Kaimur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Pathak
For the Opposite Party/s : Mr.Ajit Kumar

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 09-01-2020

Heard learned counsel for the parties.

This application has been filed under Section 482 of the Cr.P.C for quashing the order dated 12.09.2018 passed by learned Additional Sessions Judge-I, Kaimur at Bhabua, in Cri. Revision No. 115 of 2018 by which he has affirmed the order dated 02.07.2018 passed by A.C.J.M. 5th Bhabua, Kaimur arising out of Bhabua P.S. Case No. 389 of 2016 (G.R. No. 1650 of 2016) by which the learned court below rejected the application filed by the informant under Section 319 of the Code



of Criminal Procedure for summoning persons as accused in the case.

Informant had instituted case giving rise to Bhabhua P.S. Case NO. 379 of 2016 against 4 accused as named in FIR namely Ram Pravesh Upadhyay, Rajni Kant Upadhyay, Vijay Shankar Upadhyay and Ravi Upadhyay, and after investigation, investigating officer found accusation to be true against accused Ram Pravesh Upadhyay, Rajnikant Upadhyay, Vijay Shankar Upadhyay and Ravi Upadhyay and submitted chargesheet against them.

After charge was framed witnesses were examined who have also alleged offence to be committed by Mahendra Upadhyay, Sarswati Devi, Neeraj Devi and Neera Devi and Informant through prosecution filed a petition under Section 319 of Cr.P.C to summon them as accused to face the trial.

Defence has objected to said petition filed on behalf of petitioner stating therein that in the FIR only four persons were made accused and Informant also in her re-statement made under Section 161 of the Cr.P.C as well as other witnesses whose statement was recorded by the I.O. have named only four persons as accused and the I.O. in his cross-examination has stated that witnesses had not named any other accused other



than accused as named in the FIR.

The learned trial court after hearing both the parties found the application filed under section 319 of Cr.P.C to be based on incorrect facts and erroneous as the statement made in the petition that Informant had named all 8 persons as accused in FIR is factually incorrect and she had named only four persons as accused in FIR and dismissed the petition filed under section 319 of Cr.P.C.

Petitioners thereafter filed revision before the Sessions Court, Bhabhua, Kaimur giving rise to Criminal Revision No. 115 of 2018 and Revisional Court dismissed the revision being vexatious.

This court does not find any error or infirmity in the order passed by the court below, accordingly this quashing application is dismissed.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	
Transmission Date	

