

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19945 of 2022

Arising Out of PS. Case No.-97 Year-2011 Thana- UCHKAGAON District- Gopalganj

Ranjeet Kumar Son Of Late Prabhudayal Singh Resident Of Village- Jhirwa,
Ward No. 3, Police Station- Uchakagaon, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arvind Yadav @ Arbind Yadav Son of Punyadev Yadav Resident of village - Shyampur, Police Station- uchakagaon, District - Gopalganj.
3. Rajeev Yadav Son of Punyadev Yadav Resident of village - Shyampur, Police Station- uchakagaon, District - Gopalganj.
4. Binod Yadav Son of Punyadev Yadav Resident of village - Shyampur, Police Station- uchakagaon, District - Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Baxi S.R.P. Sinha, Sr. Adv. Mr. Lokesh Kumar Singh, Adv.
For the State	:	Mr. H.A. Khan, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 20-10-2022 Heard learned counsel for the parties.

This application has been filed for quashing of the order dated 11.03.2022 passed by the learned Sessions Judge, Gopalganj in Sessions Trial No. 765 of 2016, whereby and whereunder application filed by the prosecution under Section 311 of the Code of Criminal Procedure for examining one Arjun Prasad, I.O. and for taking strong action against him was not decided and the evidence of the prosecution was closed only because no other prosecution witnesses were present only on the request of defence, their evidence was closed and the case was



fixed for judgment on 21.10.2020.

Mr. Baxi, learned senior counsel for the petitioner submits that after the examination-in-chief in part, the Additional Sessions Judge-IV could not produce the attendance of said Sri Arjun Prasad for further examination. It is further submitted that the learned Sessions Judge on the application of the defence has closed the evidence on behalf of the prosecution. The learned Sessions Judge at his own level tried to secure the attendance of said Sri Arjun Prasad, but he did not appear for further examination. The learned Sessions Judge, though made some attempts but has not exhausted all the methods to secure the attendance of the witness. The non bailable warrant of arrest, the warrant of attachment and approaching S.P. for the purpose was not adopted by the Sessions Judge. The present place of posting and the name of the controlling authority was already on the record. It is lastly submitted that without examining the most material witness, the learned Sessions Judge, Gopalganj on 11.03.2022 was pleased to close the evidence on behalf of the prosecution as no prosecution witness was present on that day. On the same day, he closed the evidence of defence also and fixed the case on 21.10.2022 for hearing and delivering the judgment.



Having heard learned senior counsel, perusing the case record and in the interest of justice, the order of the learned court below fixing next date of hearing and for the judgment as 21.10.2022 is hereby stayed and the learned court below is directed to call for the I.O., cross examine him and after giving ample opportunity of hearing to all the parties deliver its judgment within a period of 15 days from the date of receipt/production of a copy of this order.

With the aforesaid observations and directions, this application is allowed.

(Anjani Kumar Sharan, J)

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