

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32576 of 2016

Arising Out of PS. Case No.-53 Year-2009 Thana- SAHEBGANJ District- Muzaffarpur

1. Ram Sagar Rai and Ors Son of Singeshwar Rai. null
2. Ramesh Rai, Son of Singeshwar Rai. null
3. Bira Rai, Son of Singeshwar Rai. All are Resident of Village- Semra Nizamat, P.S.- Sahebganj, District- Muzaffarpur.

... .. Petitioners.

Versus

The State of Bihar.

... .. Opposite Party/s

WITH
CRIMINAL MISCELLANEOUS No. 32580 of 2016

Arising Out of PS. Case No.-53 Year-2009 Thana- SAHEBGANJ District- Muzaffarpur

1. SINGESHWAR RAI @ SINGESAR RAI Son of Late Laldhari Rai.
2. Satish Rai, Son of Lakhindra Rai Both are Resident of Village- Semra Nizamat, P.S.- Sahebganj, District- Muzaffarpur.

... .. Petitioners.

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 32576 of 2016)

For the Petitioner/s : Mr. Sunil Kumar

For the Opposite Party/s : Mr. Anish Chandra

(In CRIMINAL MISCELLANEOUS No. 32580 of 2016)

For the Petitioner/s : Mr. Sunil Kumar

For the Opposite Party/s : Mr. Anish Chandra

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 01-12-2022 Heard learned counsel for the petitioners and learned
APP for the State.

The present application under Section 482 of the Code
of Criminal Procedure has been preferred on behalf of the



petitioners for quashing the order dated 10.08.2015 passed by the learned Additional Sessions Judge-XI, Muzaffarpur in Sessions Trial No.20 of 2010, arising out of Sahebganj P.S. Case No.53 of 2009, by which the petition filed under Section 311 of the Code of Criminal Procedure for the recall of some prosecution witness for their cross-examination has been rejected.

The prosecution case, in brief, is that all the F.I.R. named accused persons, after forming unlawful assembly, are said to have injured the father and son of the informant.

It is submitted by learned counsel for the petitioners that petitioners are quite innocent and have not committed any offence as alleged in the F.I.R. The petitioners are own *pattidar* of the informant and the deceased. The alleged occurrence took place due to land dispute and enmity of *pattidari*. It is further submitted that during course of trial due to lack of proper instructions some of the P.Ws., namely, P.Ws.1, 2, 5 and 6 could not be cross-examined on some vital points regarding the case and their re-cross-examination is essential so that the real facts of the alleged occurrence may come out. For this purpose, the petitioners filed a petition under Section 311 of the Cr.P.C. before the learned Court below for recalling of some of the



witnesses. The prosecution filed rejoinder. The learned Court below, after hearing the parties, rejected the petition filed under Section 311 Cr.P.C. mechanically and technically without considering the facts and circumstances of the case in the correct perspective. Hence, this application.

Having heard learned counsel for the parties and perusing the records available on record, I am not inclined to interfere with the order dated 10.08.2015 and the learned Judge has rightly rejected the petition under Section 311 Cr.P.C. filed by the petitioners.

Accordingly, this application is dismissed.

(Anjani Kumar Sharan, J)

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