

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55069 of 2019

Arising Out of PS. Case No.-36 Year-2012 Thana- BHAGWANPUR District- Begusarai

Akhileshwar Prasad Singh, Son of Late Ram Prit Singh, Resident of Village -
Moktiyarpur, P.S.- Bhagwanpur, Dist.- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Tapeswar Singh Kuldip Singh Resident of Village - Motiyarpur, P.S.-
Baligaon, Dist.- Begusarai.
3. Raushan Kumar Son Tapeswar Singh Resident of Village - Motiyarpur,
P.S.- Baligaon, Dist.- Begusarai.
4. Chandan Kumar S/o Shankar Singh Resident of Village - Bhagatpur, P.S.-
Baligaon, Dist.- Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Hare Krishna Prasad, Advocate
For the State	:	Mr. Ajay Kumar Jha, APP
For the Opp.Party	:	Mr. Shashank Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 01-09-2022

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the opposite party nos. 2 to 4.

2. The present petition has been filed for quashing the order dated 08.07.2019 passed by learned 5th Additional Sessions Judge, Begusarai in S.T. No. 503 of 2012 whereby and whereunder the learned trial court rejected the petition filed on behalf of the informant for marking the certified copy of FIR and the charge sheet of Bhagwanpur P.S. Case No. 76 of 2007 as exhibits in the Sessions Trial No. 503 of 2012.

3. It has been the case of the petitioner that the petitioner is the informant of Bhagwanpur P.S. Case No. 36 of 2012 and in



connection with the said case, S.T. No.503 of 2012 is pending before the learned 8th Additional Sessions Judge, Begusarai. The informant of this case was conducting lawyer in a case arising out of Bhagwanpur P.S. Case No. 76 of 2007 and being a conducting lawyer of the said case, he was assaulted by the opposite party nos. 2 to 4 and other co-accused persons. So, the FIR and the charge sheet in connection with Bhagwanpur P.S. Case No. 76 of 2007 become relevant for the purpose of S.T. No. 503 of 2012. When the informant/petitioner of this case moved an application for marking of aforesaid two documents as exhibits, the learned trial court rejected the application on the ground that a considerable time period has elapsed since the examination of P.W. 2 as the prosecution witness. It has further been submitted that the order sheet contains the factual error as it mentions Pratima Devi is the informant of the case, but she is not the informant in the present case i.e. S.T. No. 503 of 2012. Further reason for rejection was that the documents were within the knowledge of the informant but no sufficient reasons for not filing the documents at that stage was given in the petition and allowing the petition at that stage would prejudice the defence and also cause the delay in the decision of this case. On these grounds, the petition was dismissed.



4. The learned counsel for the petitioner submits that the petition was filed before the learned trial court on 21.05.2019 by this petitioner (informant) for exhibiting the FIR and the charge sheet of Bhagwanpur P.S. Case No. 76 of 2007, admittedly public documents which could be marked exhibits without any formal proof under Section 76 of the Evidence Act. The petitioner was conducting lawyer of Bhagwanpur P.S. Case No. 76 of 2007 against the accused persons and therefore, they assaulted him and the present occurrence has also taken place. The learned counsel further submits that the petitioner has filed the petition dated 21.05.2019, but the learned court below has wrongly mentioned that the informant Pratima Devi has filed the said petition for marking exhibits the certified copy of the FIR and the charge sheet of Bhagwanpur P.S. Case No. 76 of 2007. The learned counsel further reiterates that as the petitioner was doing his duty in Bhagwanpur P.S. Case No. 76 of 2007 against the accused persons, they assaulted him and the occurrence as mentioned in the FIR of Bhagwanpur P.S. Case No. 36 of 2012 has taken place. So, the FIR and the charge sheet of the said case become relevant documents for the purpose of adjudication.

5. The learned counsel further submits that if the documents are not taken on record and marked as exhibits, the



petitioner would have no case before the learned trial court and simply because the petition for marking the documents as exhibits has been filed at a belated stage, it should not be dismissed. Thus, learned counsel submits that the impugned order is not sustainable and the present petition be allowed and the impugned order be set aside and the learned trial court be directed to mark those documents as exhibits in S.T. No. 503 of 2012.

6. The learned counsel appearing on behalf of the opposite party nos. 2 to 4 opposes the prayer submitting that the petitioner has filed an application on similar line earlier also and the said application was rejected vide order dated 26.04.2019. The petitioner has filed the subsequent application without mentioning the same in his petition. The learned counsel further submits that the learned lower court has given reasons for rejection of the petition for marking the documents as exhibits and there is no infirmity and illegality in the said order. The petitioner is trying to fill up lacunae in his case and also wants to delay the trial since the opposite party nos. 2 to 4 have been facing the rigours of trial for last ten years and it would not in the interest of justice to allow the petition of the petitioner for setting aside the impugned order dated 08.07.2019.

7. Perused the records.



8. I have given my thoughtful consideration to the rival submission of the parties. I fail to understand why the petitioner did not bring to the notice of the learned trial court about the documents, namely the FIR and the charge sheet of Bhagwanpur P.S. Case No. 76 of 2007 at the time when he filed the application dated 26.04.2019 with similar prayer for marking certain other documents as exhibits. It seems when the said petition was rejected, the petitioner has filed the petition dated 21.05.2019 with a prayer for marking exhibits another set of documents and the prayer was rejected vide the impugned order.

9. From perusal of the lower court records, it transpires that the prosecution evidence was closed on 03.07.2015 and almost after four years of closure of the prosecution evidence, the petition has been filed on behalf of the informant to mark exhibits the FIR and the charge sheet of Bhagwanpur P.S. Case No. 76 of 2007. The petitioner has not taken pains to explain why these documents were not earlier brought on record. Further perusal of the record shows that just prior to closure of the prosecution evidence, the petitioner filed an application under Section 319 Cr.P.C. for summoning some persons as accused in the case and the said application was rejected vide order dated 11.06.2015. So it is obvious that the petitioner was diligently pursuing his case and



was not oblivious of the fact regarding stage of his case or proceeding taking place in the learned trial court. As already discussed hereinabove, the petitioner has filed an application on 26.04.2019 for marking certain documents as exhibits and at that time, the petitioner did not bring this fact on record regarding marking exhibits of the FIR and the charge sheet of Bhagwanpur P.S. Case No. 76 of 2007.

10. From the aforesaid discussion, it is clear that the petitioner wants to linger the trial anyhow and filing successive applications at later stage of trial and not filing these applications when the prosecution evidence was being recorded shows that the petitioner, an advocate himself, does not want the trial to end and wants the accused persons to suffer agony of trial for time as long as possible. The impugned order is based on sound reasoning and I am of the opinion that the trial must be concluded at the earliest and as the matter has reached at the stage of argument, filing petition for marking documents as exhibits or challenging the impugned orders in the court on rejection of the same would simply cause further delay in conclusion of the trial. Hence, the contention of the petitioner cannot be sustained.

11. So far as the contention of the petitioner regarding wrongly mentioning the name of the informant Pratima Devi is



concerned, the same appears to be minor error and does not affect the merits of the order impugned and which should be corrected by the learned trial court in due course and the petitioner could have raised this issue with the trial court at the outset, but it appears that he did not choose to do so and only raised this issue before this Court. However, this will not vitiate the entire impugned order. However, it is expected from the learned trial court to correct the error as pointed out by the petitioner.

12. In the light of the aforesaid discussion, I am unable to persuade myself to set aside the impugned order since it does not suffer from any infirmity and illegality.

13. Accordingly, this petition is dismissed.

14. The stay granted vide order dated 20.09.2019 stands vacated and the learned trial court is directed to proceed with the matter and conclude the same at the earliest.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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