

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28983 of 2019

Arising Out of PS. Case No.-315 Year-1987 Thana- PHULWARISHARIF District- Patna

UMESH NARAYAN, Son of Late Lakshmi Narayan Sinha, Resident of
Village- Suitha, P.S.- Phulwari, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.D.K. Sinha. Sr. Adv Mr. Alexander Ashok, Adv
For the Opposite Party/s	:	Mr.Uma Shankar Prasad Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 11-05-2023 Heard learned counsel for petitioner and learned
Additional Public Prosecutor.

This application is filed for quashing the order dated
19.02.2019 passed by the learned Fast Track Court-1, Patna in
Sessions Trial No. 564/1990 arising out of Phulwari P.S. Case
No. 315/1987, rejecting a petition filed by the prosecution under
Section 311 of the Cr.P.C.

The prosecution story in short is that petitioner was
looking after his crops and the accused persons came armed
with gun and on order of Dinesh Singh, Prince Singh fired upon
the petitioner and the bullet hit petitioner on forehead and he
died on spot. While returning, the accused set the crops on fire
which was witnessed by the villagers.



The application under Section 311 Cr.P.C. was filed for examination of a charge-sheeted witness who was not examined by the Trial Court because he was in custody. But all the grounds mentioned in the application under Section 311 Cr.P.C. ought to have been considered by the Trial Court and a reasoned order should have been passed.

The Trial Court is not a post-office and cannot pass a cryptic order. In that view of the above, this application is allowed and the order dated 19.02.2019 passed by the learned Fast Track Court-1, Patna in Sessions Trial No. 564/1990 arising out of Phulwari P.S. Case No. 315/1987 is hereby quashed.

The Trial Court is directed to reconsider the application under section 311 Cr.P.C. and pass a reasoned order in accordance with law.

This Court has not given any opinion on the merits of the case as to whether the petition under Section 311 Cr.P.C. shall be allowed or shall be dismissed by the Trial Court. It is upon the Trial Court to decide the same.

(Sandeep Kumar, J)

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