

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.799 of 2017**

Arising Out of PS. Case No.-11 Year-2004 Thana- DARBHANGA District- Darbhanga

Sheela Devi W/o Shambhu Sah Bihari, Resident of Imlighat, P.S.- Town,
District- Darbhanga.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Mahesh Marwari @ Mahesh Tekriwal, S/o Late Gauri Shankar Tekriwal,
R/o Imlighat, P.S.- Town, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Das, Advocate
For the Respondent/s	:	Mr. Dr.Mrityunjaya Kr.Gautam, APP

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT**

Date : 20-04-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

The present criminal revision application has been filed for setting aside the order dated 05.06.2017 passed in Cr. Revision No. 151 of 2017 arising out of Darbhanga Town P.S. Case No. 11 of 2004 (G.R. No. 72 of 2004) corresponding to Trial No. 542 of 2017 by the Sessions Judge, Darbhanga by which order passed by the Judicial Magistrate Ist Class, Darbhanga allowing the petition under Section 311 of Cr.P.C. was set aside.

Counsel for the petitioner submits that the petitioner is the victim of the crime and she wants to adduce two

witnesses Doctor and I.O.. He further submits that the prosecution has to examine I.O. and doctor but after closing of evidence, opportunity was given to produce evidence of doctor and I.O. and the fixed date, as at the time of allowing the first application under Section 311 of Cr.P.C. court has granted one and half month to adduce evidences and it was also directed that if the prosecution failed to avail the opportunity granted may be deemed to be withdrawn. Counsel for the petitioner further submits that at first time neither I.O. nor doctor was examined but in the second time again an application under Section 311 of Cr.P.C. was allowed and neither doctor nor I.O. was examined, so counsel submits that in the interest of justice a last opportunity may be granted.

Counsel for the State submits that opportunity to adduce evidences of I.O. and doctor was given to the prosecution but prosecution failed. It has been submitted that the first opportunity was granted by allowing a petition under Section 311 of Cr.P.C. in which one and half month time was granted but neither I.O. nor doctor came forward and time lapsed. Thereafter the case was fixed for argument, thereafter second time a petition under Section 311 of Cr.P.C. was filed which was allowed. Second time also neither I.O. nor doctor came to

adduce their evidences, in the meantime the defence has preferred criminal revision against the order allowing a petition under Section 311 of Cr.P.C., therefore, petition should be rejected.

Upon hearing the parties and going through the record, it transpires to this court that the present criminal case for which trial going is of the year 2004, bearing Darbhanga Town P.S. Case No. 11 of 2004 dt. 17.01.2004. Charge has been framed in this case on 10.09.2004, six witnesses have been examined and thereafter on 04.03.2008 prosecution witness was closed. On 13.03.2008 a petition under Section 311 of Cr.P.C. was allowed subject to the conditions that prosecution shall produce witness on next two consecutive dates. But prosecution failed to produce 2 witnesses I.O. & doctor, except examination of P.W.6, on 12.05.2009. Upon closing of prosecution witness matter was fixed for argument, but again second time under Section 311 of Cr.P.C. a petition was filed by which the court has granted one opportunity to produce I.O. and doctor vide order dated 23.10.2009 within one and half month, the said time again lapsed but neither I.O. nor doctor examined. The defence witness was closed on 25.11.2011 and case was posted for argument, in the year 2016. Then again a petition under Section

311 of Cr.P.C. was filed and it was allowed, thereafter revision was filed bearing Cr. Rev. No. 151 of 2017 and by the said revision the time granted for adducing evidence was set aside. It is important that prosecution was granted opportunity of about 7 years for adducing only two witnesses but those two witnesses had not come forward.

This Court is of the view that it is unfortunate on the part of prosecution that case of the year 2004 could not be concluded in year 2023, speedy trial is the Constitution Vision of Justice and hence, in this view of the matter, this court feels that there is no need of any interference in the order dated 05.06.2017 passed in Cr. Revision No. 151 of 2017 and the present Criminal Revision petition is hereby dismissed.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	