

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1358 of 2022

Arising Out of PS. Case No.-227 Year-2013 Thana- MOHANIYA District- Kaimur (Bhabua)

SURENDRA KUMAR CHATURVEDI Son of Ramayan Chaturvedi Resident
of Village and P.O.- Mujan, P.S.- Mohania, District- Kaimur

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, Kaimur at Bhabua
2. The Superintendent of Police, Kaimur at Bhabua
3. The Civil Surgeon-Cum-Chief Medical Officer, Kaimur at Bhabua
4. The Investigating Officer of Mohania P.S. Case No. 227 of 2013
5. Dr. A.K. Das, Medical Officer, Sub Hospital, Mohania
6. Paras Nath Chaubey Son of Late Vyas Chaubey Resident of Village and P.O.- Mujan, Mohania, District- Kaimur
7. Sadanand Chaubey Son of Late Vyas Chaubey Resident of Village and P.O.- Mujan, Mohania, District- Kaimur
8. Gaurishankar Chaubey @ Asharafi Chaubey Son of Paras Nath Chaubey Resident of Village and P.O.- Mujan, Mohania, District- Kaimur
9. Sidheshwar Chaubey @ Munna Chaubey Son of Amarnath Chaubey Resident of Village and P.O.- Mujan, Mohania, District- Kaimur
10. Mithlesh Chaube Son of Amarnath Chaubey Resident of Village and P.O.- Mujan, Mohania, District- Kaimur
11. Shushil Chaubey Son of Amarnath Chaubey Resident of Village and P.O.- Mujan, Mohania, District- Kaimur

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Pradhan Murli Manohar Prasad, Advocate Mr. Abhash, Advocate Mr. Raju Kumar, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC-8
For the Pvt. Respondent	:	Mr. Saket Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 13-10-2023 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the respondent
no.9.

2. Petitioner in this case is aggrieved by and



dissatisfied with the order dated 25.08.2022 passed in S. Tr. No. 136 of 2014 arising out of Mohania P.S. Case No. 227 of 2013 registered under Sections 341, 323, 324, 307, 379 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

3. Learned counsel for the petitioner submits that on a bare perusal of the impugned order dated 25.08.2022 it would appear that the learned trial court did not take appropriate steps for procuring the appearance of the Investigating Officer and the Medical Officer who were the charge-sheet witnesses of the case. Learned counsel submits that the impugned order would reveal that the witness, Dr. A.K. Das, who is a retired Medical Officer, was contacted by the informant with a request to appear as a witness in the case but he told the informant that unless he gets a summon either from the government lawyer or from the court it would not be possible for him to appear as a witness. This fact was duly communicated to the learned trial court but the learned trial court did not deem it just and proper to issue a summon to the Medical Officer and the Investigating Officer. The trial court, instead closed the prosecution evidence.

4. Learned counsel for the State as well as the respondent no.9 are unable to controvert these submissions of learned counsel for the petitioner.



5. Having gone through the materials available on the record, particularly the impugned order, this Court is of the considered opinion that the learned trial court has passed a completely illegal order by closing the prosecution evidence. It is evident that neither the government lawyer nor the trial court had sent any communication to the charge-sheet witnesses to depose. It is difficult to understand as to how the trial court can close the prosecution evidence in such circumstance.

6. The impugned order is hereby set aside. The learned trial court is directed to take appropriate steps to procure appearance of the Investigating Officer and the Medical Officer in course of trial and conclude the trial as early as possible.

7. This writ application stands allowed.

(Rajeev Ranjan Prasad, J)

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