

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15903 of 2016

Arising Out of PS. Case No.-36 Year-1996 Thana- MAGADH UNIVERSITY District- Gaya

Jagan Yadav @ Jaggu Yadav Son of Late Ramdeo Yadav Resident of Village -
Ganghar, Police Station - Magadh University District - Gaya

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Nagina Devi Wife of Late Ambika Yadav Resident of Village - Ganghar Tola
Umrawa Chak, Police Station - Magadh University, District - Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sajid Salim Khan
For the Opposite Party/s	:	Mr. Kamal Kumar Sinha, Advocate
For the State	:	Mr. Jharkhandi Upadhaya, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

6 17-02-2023

Heard the parties.

By the impugned order dated 26.02.2016 passed by learned A.D.J. VIIth, Gaya has rejected the prayer of the petitioner to recall the Investigating Officer (PW-3) for further cross-examination in Sessions Trial No. 44 of 2015 arising out of Magadh University P.S. Case No. 36 of 1996.

The contention of the petitioner is that after examination of the Investigating Officer other witnesses including the eye-witness and the informant have been examined and in total 11 witnesses have been examined in this Case.

He further submits that the defence could not take any contradiction from the Investigating Officer and other witnesses because of the non-recall of the Investigating Officer and therefore, he filed an application on 12.06.2016 for recall of



the Investigating Officer has been wrongly dismissed.

Heard learned counsel for the State and opposite party no.2.

Learned counsel for the State and opposite party no.2 have not been able to defend the impugned order.

Every accused has a right to fair trial and the Court below should not have rushed and dismissed the application by the impugned order. In the interest of Justice, he should have ordered for recall of the Investigating Officer.

In view of the fact that the trial is still pending, the impugned order dated 26.02.2016 is quashed and the prayer of the petitioner for recall of the Investigating Officer is allowed.

The trial Court will issue notices to the Investigating Officer for fresh cross-examination.

Since it is an old case, the notice should be issued to the D.G.P., Bihar and the trial be disposed of at the earliest.

With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

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