

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23531 of 2023

Arising Out of PS. Case No.-25 Year-2007 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Ranjeet Kumar Singh @ Ranjeet Kumar Son of Krishana Prasad Singh R/V-
Panchmahla Tola, Majhaul P.S- Cheriya Bariyarpur, Dist- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Kumar Singh Son of Sri Devki Nandan Prasad Singh R/V- Majhaul
(Panchmahla Tola) PS- Cheriya Bariyarpur (Majhaul) Dist- Begusarai

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Akhileshwar Pandey

For the Opposite Party/s : Mr.Ahmad Ali

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 01-04-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This application has been filed for quashing order dated 19.12.2022 passed by learned Addl. Sessions Judge – III, Begusarai in S.T.No. 91 of 2008, arising out of Cheriya Bariyarpur P.S. Case No. 25 of 2007, whereby the petition filed on behalf of petitioner under Section 311 of the Cr.P.C. for recalling P.W.-1, P.W.-3 and P.W.-4 for further cross-examination has been dismissed.

3. It is submitted on behalf of petitioner that P.W.-1, P.W.-2 and P.W.-4 are material witnesses, who have been examined and cross-examined, but due to some unavoidable



circumstances important questions remained to be asked, which were essential in the interest of justice.

4. However, learned A.P.P. for the State opposed and submitted that the present application has been filed only with a view to delay and prolong the trial. Present case pertains to the year 2007. P.W.-1, P.W.-3 and P.W.-4 were examined and cross-examined in detail and there is no reasonable ground to file a petition after a considerable period of 10 years of examinations of so called prosecution witnesses. There is no basis for holding that any prejudice will be caused to the accused unless the witnesses are recalled. As such, there is neither any patent error in the approach adopted by the learned trial court while rejecting the prayer for recall of witnesses nor any clear injustice if such prayer is not granted.

5. Recently Hon'ble Apex Court in the case of **Ag v. Shiv Kumar Yadav & Anr** reported in *AIR 2015 SC 3501* has dealt with the provision of Section 311 Cr.P.C. in detail. In this case, the issue raised for consideration was whether recall of witnesses, at the stage when statement of accused has been recorded could be allowed on the plea that the defence counsel was not competent and had not effectively cross-examined the witnesses. The Hon'ble Apex Court disapproved the view and



observed that on this ground witnesses cannot be recalled and re-examined.

6. Considering the aforesaid facts and circumstances as well as law laid down by the Hon’ble Apex Court, this Court does not find any illegality or perversity in the order impugned.

7. This quashing application stands dismissed.

(Prabhat Kumar Singh, J)

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