

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.532 of 2023

Arising Out of PS. Case No.-210 Year-2021 Thana- DHORAIYA District- Banka

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MUKESH PASWAN SON OF LATE BHAKHI PASWAN RESIDENT OF
VILLAGE -KHUTAH, PS- LODIPUR, (BYPASS OP), DISTRICT-
BHAGALPUR

... .. Petitioner/s

Versus

1. The State of Bihar
2. SHANKAR PASWAN SON OF LATE TEJ NARAYAN PASWAN
RESIDENT OF VILLAGE- JAKHA, PS- DHAURIYA, DIST- BANKA
3. VINOD PASWAN SON OF CHAMAK LAL PASWAN VILLAGE-
KHUTAH, PS- BYPASS, DIST- BHAGALPUR

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Adv. Mr. Rakesh Kumar Sharma
For the Respondent/s	:	Mr. Pranav Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 01-10-2024

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

2. This revision has been preferred by the
applicant being aggrieved with the order dated 26.05.2023
passed by the learned Additional Sessions Judge-I, Banka in
Sessions Trial No. 321 of 2022/17 of 2022, whereby and
whereunder the learned Sessions Court allowed the application



filed by the opposite party no. 3 Vinod Paswan under Section 319 of Cr. P.C. and petitioner has been summoned to face the aforesaid sessions trial.

3. According to the case of prosecution, on 16.08.2021 at about 16:30 p.m., when the informant Shankar Paswan was returning from his village, it was informed by some persons that near *Muswa Pokhar*, the dead body is lying down. On receiving such information, he went to the spot and found the dead body of unknown person was lying there. He informed the police and on the basis of the information given by him, the first information report was lodged against unknown persons for the offence punishable under Sections 302 and 201 of the Indian Penal Code.

4. After investigation, the police filed the charge sheet against the accused persons. During course of trial, P.W. 1 Babita Devi and P.W. 2 Subodh Paswan were examined before the Trial Court. After recording their statements, the application under Section 319 of Cr. P.C. has been filed by the prosecution as mentioned in the impugned order.

5. The learned Trial Court on the basis of the statements of P.W. 1 Babita Devi and P.W. 2 Subodh Paswan arrived at the conclusion that there are materials available in



their statements to implicate the present applicant for the alleged offences by way of making criminal conspiracy with other accused persons and summoned the present applicant for facing trial. Hence, this revision petition has been preferred by the applicant-petitioner.

6. Learned counsel for the petitioner submits that there is no material available on record to implicate the applicant for the alleged offences. He further submits that in the statements of P.W. 1 Babita Devi and P.W. 2 Subodh Paswan also there is nothing available on record, which shows that the present applicant is also involved in the alleged crime along with other co-accused persons as conspirator.

7. Learned counsel for the respondent State supported the impugned order passed by the learned Trial Court and submits that looking into the additional material available on record, the learned Trial Court has rightly summoned the applicant.

8. Heard learned counsels appearing for the parties and perused the impugned order as well as the statements of P.W. 1 Babita Devi and P.W. 2 Subodh Paswan recorded by the learned Trial Court.

9. Perusal of paragraph nos. 3 and 7 of the



statement of P.W. 1 Babita Devi, it transpires that her above statement is based upon the information gathered from another person meaning thereby the above statement of this witness is a hearsay statement. With regard to the statement of paragraph no. 4 of this witness is concerned, no direct allegation has been made by her against the present applicant. Only general and omnibus allegations have been made against the accused persons including the applicant. Likewise perusal of paragraph no.6 of the statement of P.W. 2 Subodh Paswan also shows that the present applicant along with other accused persons went to Gujarat for taking the girl Sonam. Apart from this, there is nothing in the statement of P.W. 2 Subodh Paswan against the petitioner. Therefore, I find that there is no material available on record on the basis of which it can be said that petitioner was also involved in the alleged crime along with other co-accused persons as a conspirator.

10. Therefore, the impugned order dated 26.05.2023 passed by the learned Sessions Court is not in accordance with the evidence available on record. Thus, the impugned order is liable to be set aside.

11. Resultantly, the revision petition is allowed. The impugned order dated 26.05.2023 passed by the learned



Additional Sessions Judge-I, Banka in Sessions Trial No. 321 of
2022 and Sessions Trial No. 17 of 2022 is, hereby, set aside.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	08.10.2024
Transmission Date	08.10.2024

