

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1641 of 2024

Arising Out of PS. Case No.-127 Year-2019 Thana- BARIYARPUR District- Munger

ABHINASH KUMAR @ ABINASH RAJ @ CHHOTU KUMAR @
CHHOTU SON OF DIPAN MANDAL R/O VILLAGE- MANJHLI, P.S.-
SULTANGANJ, DIST.- BHAGALPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deep Anshuman, Adv

For the Opposite Party/s : Mr. Shaheen Begum, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 10-12-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. This application has been filed for quashing the order dated 22.03.2022 passed in POCSO Case No. 81/2019 arising out of Bariyarpur P.S. Case No. 127 of 2019 whereby and whereunder, the learned Exclusive Special Judge (POCSO Act)-cum- Additional District and Sessions Judge- VI, Munger rejected the prayer of petitioner dated 02.04.2021, 03.01.2022 and 24.02.2022 for recall of prosecution witnesses u/s 311 of the Cr. P.C.

3. As per the prosecution case, the petitioner is alleged to have abducted the minor daughter of the informant.

4. On the basis of the written application of the



informant, FIR was instituted U/s 366A read with 34 of the Indian Penal Code against the accused petitioner and others and after investigation, the charge-sheet was submitted and on 06.12.2019, the Court below took cognizance of the offences 366A of the Indian Penal Code and U/s 04 / 08 of the POCSO Act against the accused petitioner.

5. Learned counsel for the petitioner has submitted that the witness No. 1, 2 and 3 have not been cross-examined.

6. Learned APP for the State has opposed the quashing application of the petitioner and has submitted that the court below has rightly been rejected the prayer of the petitioner for recall of prosecution witnesses U/s 311 of the Cr.P.C. It is further submitted that the examination-in-chief of the victim has been recorded as PW-1 in presence of the accused Abinash Kumar @ Chhotu Kumar nad his counsel but learned counsel for the defence has refused to cross-examine the PW-1 and left the court room. Then the Court also asked the accused to cross-examine the PW-1 but he also refused and lastly the court discharged the witness (PW-1). PW-2 and PW-3 have been examined in presence of the accused but learned counsel for the defence did not appear before the court for cross-examination of the said witnesses despite sufficient opportunities given by the



Court. The accused person Abhinash Kumar @ Chhotu Kumar also refused to cross-examine the PW-2 and PW-3 and lastly witnesses were discharged.

7. Considering the facts and circumstances of the case and the materials available on record, this court is not inclined to interfere in the impugned order.

8. Accordingly, the present quashing application is dismissed.

(Chandra Prakash Singh, J)

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