

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5682 of 2022

Arising Out of PS. Case No.-108 Year-2017 Thana- LAHERIYASARAI District- Darbhanga

KAILASH KUMAR GUPTA & ORS.

... .. Petitioner/s

Versus

THE STATE OF BIHAR & Ors.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amarendra Narayan, Advocate

For the Opposite Party/s : Mr.Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

8 16-03-2026

I.A. No.1 of 2023

1. I.A. No.1 of 2023 has been filed for expunging the name of the petitioner No.1 from the cause title, who died during pendency of the case. The death certificate has been annexed.

2. For the reasons stated in I.A. application, this I.A. No.1 of 2023 is allowed.

3. Heard the parties on merit.

4. The petitioners are an accused in a case under Section 302. Kailash Prasad Gupta, Chanda Devi and Praveen Kumar Gupta moved application stating that they wanted to depose in this case against charges levelled under Section 315 by examining themselves as witnesses. Kailash Prasad Gupta is no more. Now, Chanda Devi and Praveen Kumar Gupta are



there who can depose in this case. The case of the year 2017. The prosecution closed its evidence on 06.01.2022. The trial Court records that 4 dates, i.e., 08.03.2021, 06.04.2021, 16.11.2021 and 17.11.2021, i.e., four opportunities were given to the defence to produce evidence but they did not do so and the Court instantly came to the conclusion that the law is made for vigilant people and not for sleeping people like the instant petitioners. It seems that the learned Sessions Judge was of the opinion that the prosecution has the long rope in examining the witnesses within three years but delay of four dates by defense is something which should extinguish important rights given in the criminal procedure code, i.e., 315 where the accused has been given liberty to examine himself. It is needless to say that after 313 when the prosecution evidence is presented to the accused in a summarised form and he is supposed to respond to it, this is first opportunity and probably the only opportunity where the accused is given a direct opportunity to respond to the allegation levelled against him. This law may also be treated as a part of rule of audi alteram partem and rule of natural justice. Such a hyper technical approach with regard to such an important right is disturbing.

5. The counsel for the State says that despite



opportunities, the defence did not produce any evidence and the whole idea was to linger the trial.

6. In view of such, the order dated 20.12.2021 in Sessions Trial No.289 of 2017 passed by A.D.J.-V, Darbhanga is quashed to the extent of denial of Chanda Devi and Praveen Kumar Gupta to depose in this case under Section 315. However, this Court is also aware of the fact that the trial has already being delayed and there was a direction of Hon'ble Patna High Court to conclude the trial expeditiously.

7. In such view of the matter, the trial Court is directed to fix two dates. The accused Praveen Kumar is stated to be in custody, so there is no difficulty in examining him. The other accused Chanda Devi be given an opportunity to present her evidence on one date and if she fails to do so she will be given to no further opportunity.

(Ansul, J)

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