IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31353 of 2025

CNR No. BRHC010442562025

Arising Out of PS. Case No.-80 Year-2017 Thana- MAHUA District- Vaishali

==========

Sanjeet Kumar Son of Yadunandan Ray Resident of village -Gorigama PS -Mahua Dist -Vaishali

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr. Manish Chandra Gandhi, Adv.
Mr. Himanshu Ranjan, Adv.
Mr. Akhil Prakash, Adv.
For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

==========

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR

ORAL ORDER

2 20-11-2026 Heard learned counsel for the petitioner and learned APP for the State.

2. The instant application has been filed on behalf of the petitioner for quashing of the order dated 06.01.2025, passed by the learned Judicial Magistrate 1st Class, Vaishali at Hajipur, by which the petition dated 02.08.2024, filed by the petitoiner under Section 311 of the Cr.P.C. has been rejected.

3. As per the prosecution case, the informant, who happens to be the Mukhiya of Gram Panchayat Raj Bishunpur Hira Ram @ Paharpur, alleged that the accused persons had been demanding commission and bribe from him in connection with the ongoing government schemes for the last six months

WEB COPY

and, upon his refusal, he had threatened to implicate him in a case under the Scheduled Castes and Scheduled Tribes Act. It is further alleged that on 29.03.2017, at around 3:00 P.M., while the informant was returning home after completing Panchayat work, the accused persons, along with four to five unknown persons, waylaid him near Bhutaha Jann and made assault upon him. In the course of the occurrence, one of the accused persons allegedly fired a shot which hit the informant on his neck, whereafter the accused persons attempted to strangulate him with a towel. It is further alleged that the accused persons tore certain government documents and forcibly took away Rs. 7,000/- from the informant's pocket. Thereafter, the informant was taken to Dayal Nursing Home for treatment.

4. Upon the said written report, Mahua P.S. Case No. 80 of 2017 was registered for the offences punishable under Sections 341, 323, 385, 379, 504, 506 and 34 of the Indian Penal Code. After the conclusion of investigation the allegation with respect to assault and theft was disbelieved by the investigating agency and the chargesheet came to be filed for the offences punishable under Sections 385, 504 and 506 of the Indian Penal Code in the year 2017.

5. Learned counsel for the petitioner has submitted

WEB COPY

that the petitioner happens to be the informant as well as the victim of the present case. It has further been submitted that the proposed witnesses were identified as eyewitnesses to the occurrence by one of the prosecution witnesses, namely, P.W.-6. Although the proposed witnesses were not charge-sheeted witnesses, their names surfaced during the examination-in-chief of the said witness. It has further been submitted that the proposed witnesses are competent witnesses whose examination is necessary for the proper and complete adjudication of the case. It has further been submitted that, since the charge-sheeted witnesses have turned hostile, the examination of the proposed witnesses has become necessary, and the learned Trial Court ought not to have rejected the petition filed by the informant under Section 311 of the Cr.P.C. Learned counsel has also placed reliance upon the judgments of the Hon'ble Supreme Court in the cases of ***Zahira Habibulla H. Sheikh v. State of Gujarat,*** reported in ***(2004) 4 SCC 158*** and ***Natasha Singh v. CBI,*** reported in ***(2013) 5 SCC 741,*** so as to submit that the Court has ample power under Section 311 of the Cr.P.C. to summon and examine any witness in the interest of justice. It has lastly been submitted that the impugned order rejecting the petition under Section 311 of the

WEB COPY

Cr.P.C. is unsustainable both in law as well as on facts.

6. Learned A.P.P. for the State has vehemently opposed the prayer of the petitioner.

7. Heard the parties and perused the records.

8. The present F.I.R. was instituted in the year 2017 and the case was triable by the learned Magistrate. The charge-sheet was submitted for the offences punishable under Sections 385, 504 and 506 of the Indian Penal Code, all of which are bailable in nature, and cognizance was also taken under the said Sections. From perusal of the impugned order, it appears that when the case was fixed for arguments on 30.07.2023, two applications under Section 311 of the Cr.P.C. were filed, which were allowed by the learned Trial Court, pursuant to which the informant and the doctor were examined. However, no application was filed at that stage seeking examination of the present proposed witnesses, despite the evidence of P.W.-6 having already been concluded and the case having been fixed for arguments. Even after the accused had been examined under Section 313 of the Cr.P.C., the petitioner filed yet another application under Section 311 of the Cr.P.C. on 02.08.2024, seeking examination of the proposed witnesses.

WEB COPY

9. It further appears that the proposed witnesses were neither charge-sheeted witnesses nor their statements recorded during the course of investigation under Section 161 of the Cr.P.C. Their names surfaced only during the examination-in-chief of P.W.-6. In the aforesaid circumstances, this Court is of the considered view that their examination is not necessary for the proper and complete adjudication of the case, particularly when the trial has substantially progressed and the matter has reached the stage of arguments. The power under Section 311 of the Cr.P.C. cannot be invoked merely to fill up lacunae in the prosecution case or to prolong the trial.

10. It further appears that the charge-sheet was submitted in the year 2017 and the matter had already reached the stage of arguments in the year 2023. The subsequent filing of repeated applications under Section 311 of the Cr.P.C., particularly after examination of the accused under Section 313 of the Cr.P.C., gives rise to an impression that an attempt has been made to delay the conclusion of the trial.

11. In view of the discussions made above and considering the facts and circumstances of this case, this Court is not inclined to interfere with the impugned order.

WEB COPY

12. Accordingly, the present application stands dismissed.

(Praveen Kumar, J)

Ankit Kumar/-

U			

WEB COPY