

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63757 of 2024

Arising Out of PS. Case No.-195 Year-2022 Thana- DHARHARA District- Munger

Guddu Kumar Son of Subodh Yadav Village- Chharra Patti, P.S.- Hemjapur,
Dist.- Munger

... .. Petitioner/s

Versus

1. The State of Bihar
2. Priti Kumari Wife of Raushan Yadav Village- Chharra Patti, P.S.- Hemjapur,
Dist.- Munger

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Jha, Advocate
For the Opposite Party/s	:	Ms. Meena Singh, APP
For the O.P. No. 2	:	Mr. Jyoti Ranjan Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

5 09-02-2026 Heard learned counsel for the petitioner and the
learned APP appearing on behalf of the State.

2. This application has been filed for quashing of the order dated 05.07.2024 passed by the learned Additional Sessions Judge-VI-cum-Exclusive Special Judge (POCSO) Act, Munger in connection with Dharhara P.S. Case No. 195 of 2022, corresponding to POCSO Case No. 03 of 2023, whereby and whereunder the informant's application dated 21.02.2024 filed under Section 311 Cr.P.C. for recalling all the P.Ws. *i.e.* P.W. 2 to P.W. 9 has been allowed for re-examination.

3. Learned counsel for the petitioner submits that P.W. 2 to P.W. 7 were declared hostile and they have not supported



the prosecution version. So far P.W. 8 and P.W. 9 are concerned, they have also not supported their own version as well as statement recorded under Sections 161 and 164 Cr.P.C. Learned counsel for the petitioner submits that evidence of P.W. 1 (Doctor) is concerned, he has assessed the age of the victim between 16 to 17 years. It is next submitted that the informant has filed a petition under Section 311 Cr.P.C. on the ground that they have given their deposition under threat and coercion, however, prosecution evidence started on 28.06.2023 and continued till 28.06.2024. For the aforesaid period the informant/O.P. No. 2 remained silent on the point of threatenings allegedly given by the petitioner and therefore the impugned order is bad in law and fit to be set-aside.

4. Learned counsel for the O.P. No. 2 submits that when the case was at the stage of deposition of prosecution evidence the mother of the accused lodged Dharhara P.S. Case No. 39 of 2023 against the grand-father, father and uncle of the victim and started pressurizing them to turn hostile otherwise the accused party would file another false case against them. After denial, they have managed and succeeded to get arrested the grand-father of the victim. It is further submitted that after threat to face dire consequences the informant had given



petition to the S.P. and D.I.G. Munger regarding the tampering and to turn hostile. The earlier evidence in court deposed by the P.Ws. 2 to 9 are under threat and coercion. Lastly, it has been submitted that an application dated 21.02.2024 filed for recalling P.Ws. 2 to 9 under Section 311 Cr.P.C. was rightly allowed.

5. Having heard the learned counsel for the petitioner, the learned counsel appearing on behalf of O.P. No. 2 and the learned APP appearing on behalf of the State, it appears that the petitioner is aggrieved by the fact that the petition under Section 311 Cr.P.C. filed by the prosecution was allowed.

6. The submissions made on behalf of the petitioners that the informant though has stated that she had given an application to the DIG, Munger and S.P., Munger for the threats received, however, nothing was brought on record. This Court has observed that from the perusal of the impugned order, it would be evident that earlier all the prosecution witnesses barring the official witnesses were declared hostile and it has been stated that on account of a case lodged on behalf of the petitioner they were under threat and, in fact, their grand-father has also been sent to jail and therefore the persons did not support the prosecution case earlier. However, they gathered



courage and filed the present application under Section 311 Cr.P.C., which was allowed.

7. Perused the order impugned and after going through the same, it seems that the learned trial court rightly allowed the application under Section 311 Cr.P.C. for recalling the witnesses and had permitted the prosecution witnesses to be examined as none of the private witnesses had earlier supported the prosecution and were declared hostile which also goes on to show that it was on account of certain pressure and that they all had been declared hostile earlier.

8. In view of the above, the present application is dismissed.

9. The learned trial court is directed to expedite the trial and, re-examine the prosecution witnesses within a period of four months from the date of passing of this order and conclude the evidence of prosecution witnesses within a period of six months from today.

(Sourendra Pandey, J)

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