

(2020) 02 PAT CK 0062

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 1735 Of 2019

Ganesh Das And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 19-02-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 225, 231, 301(2), 311
Constitution Of India, 1950 — Article 21

Citation : (2020) 02 PAT CK 0062

Hon'ble Judges : Arvind Srivastava, J

Bench : Single Bench

Advocate : Subodh Kuma, Md. Nadim Seraj

Final Decision : Dismissed

Judgement

Heard learned counsels appearing for the parties.

The present writ application has been filed for quashing the order dated 07.08.2019 passed by learned Additional Sessions Judge III, Begusarai in

Sessions Trial No. 371 of 2017, whereby and whereunder the application filed by the informant under section 231/311 of the Code of Criminal

Procedure has been allowed, which as per the petitioner is not only in violation of the Section 225/301(2) Cr.P.C. but also in violation of Article 21 of

the Constitution of India.

Learned counsel for the petitioner submits that the informant is not competent to file an application under section 231/311 Cr.P.C. for examining the

witnesses of his choice and filing of such application is in violation of section 225/301(2) Cr.P.C. It is further submitted that a private counsel of

informant cannot be allowed to supersede the Public Prosecutor. It is, accordingly, submitted that the order impugned allowing the application of the

informant filed under section 231/311 Cr.P.C. is in gross disregard and violation of the provision under section 225/301(2) Cr.P.C. as also of several

pronouncement of Honâ??ble High Court as well as Honâ??ble Supreme Court, and therefore, the same is fit to be quashed.

Learned counsel appearing for the State opposes the application and submits that there is no error in the order passed by the Court below as the

counsel for the informant was competent to file such petition under section 311 Cr.P.C. in order to assist the Court. The petition filed by the petitioner

has no merit and same is fit to be dismissed. However, the counsel for the informant may be directed to act under the direction of the Public

Prosecutor who shall conduct the case.

Considering the submissions advanced on behalf of the parties, this Court finds that the arguments made by learned counsel for the State has force.

The Court below, after considering the entire facts and circumstances of the case specially the objection filed by the defence, has allowed the

application of the informant filed under section 311 Cr.P.C. This Court finds no fault in the order passed by the learned Sessions Judge.

In view of the discussions made above, the writ application is dismissed with direction that the counsel for the informant will act under the direction of

the Public Prosecutor who shall conduct the case.