

(2020) 01 PAT CK 0166

In the Patna High Court

Case No : Criminal Miscellaneous No. 87132 Of 2019

Maitri Devi

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 09-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 319, 482

Citation : (2020) 01 PAT CK 0166

Hon'ble Judges : S. Kumar, J

Bench : Single Bench

Advocate : Rajesh Kumar Pathak, Ajit Kumar

Final Decision : Dismissed

Judgement

Heard learned counsel for the parties.

This application has been filed under Section 482 of the Cr.P.C for quashing the order dated 12.09.2018 passed by learned Additional Sessions Judge-

I, Kaimur at Bhabua, in Cri. Revision No. 115 of 2018 by which he has affirmed the order dated 02.07.2018 passed by A.C.J.M. 5th Bhabua, Kaimur

arising out of Bhabua P.S. Case No. 389 of 2016 (G.R. No. 1650 of 2016) by which the learned court below rejected the application filed by the

informant under Section 319 of the Code of Criminal Procedure for summoning persons as accused in the case.

Informant had instituted case giving rise to Bhabhua P.S. Case NO. 379 of 2016 against 4 accused as named in FIR namely Ram Pravesh Upadhyay,

Rajni Kant Upadhyay, Vijay Shankar Upadhyay and Ravi Upadhyay, and after investigation, investigating officer found accusation to be true

against accused Ram Pravesh Upadhyay, Rajnikant Upadhyay, Vijay Shankar Upadhyay and Ravi Upadhyay and submitted chargesheet against

them.

After charge was framed witnesses were examined who have also alleged offence to be committed by Mahendra Upadhayay, Sarswati Devi, Neeraj

Devi and Neera Devi and Informant through prosecution filed a petition under Section 319 of Cr.P.C to summon them as accused to face the trial.

Defence has objected to said petition filed on behalf of petitioner stating therein that in the FIR only four persons were made accused and Informant

also in her re-statement made under Section 161 of the Cr.P.C as well as other witnesses whose statement was recorded by the I.O. have named

only four persons as accused and the I.O. in his cross-examination has stated that witnesses had not named any other accused other than accused as

named in the FIR.

The learned trial court after hearing both the parties found the application filed under section 319 of Cr.P.C to be based on incorrect facts and

erroneous as the statement made in the petition that Informant had named all 8 persons as accused in FIR is factually incorrect and she had named

only four persons as accused in FIR and dismissed the petition filed under section 319 of Cr.P.C.

Petitioners thereafter filed revision before the Sessions Court, Bhabhua, Kaimur giving rise to Criminal Revision No. 115 of 2018 and Revisional Court

dismissed the revision being vexatious.

This court does not find any error or infirmity in the order passed by the court below, accordingly this quashing application is dismissed.