
(1984) 07 PAT CK 0037

In the Patna High Court

Case No : Criminal Miscellaneous case No. 6974 of 1984

Rajendra Pd. Singh @ Khiru Singh and Others

APPELLANT

Vs

Ramuchit Singh @ Chhotan Singh

RESPONDENT

Date of Decision : 25-07-1984

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 311

Citation : (1984) PLJR 936

Hon'ble Judges : S.B. Sanyal, J

Bench : Single Bench

Judgement

S.B. Sanyal, J.—Heard learned counsel for the petitioners. It is well settled that the jurisdiction conferred u/s 311 of the Code of Criminal Procedure cannot be used for filling up the lacuna in the prosecution case in view of the decision of the Supreme Court reported in 1980 Criminal Law Reports, 84. Learned counsel for the petitioners has also cited other decisions of the different High Courts. The power u/s 311 of the Code of Criminal Procedure can only be exercised if the Court while hearing the case deems fit and proper to examine some witness in the ends of justice and to appreciate the prosecution case and to clarify any doubt in his mind. This power cannot be exercised for the prosecutor.

2. It is submitted on behalf of the petitioners that oral arguments have already been made, written arguments filed and the date for judgment was also fixed, but on the date fixed for delivering the judgment, the impugned order has been passed. This clearly shows that in order to outdo the arguments of the defence, the Court seeks to examine a material witness. This is impermissible. The order passed by the Court below is, therefore, set aside and this application is allowed. The Court below is directed to proceed to judgment.