

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL REVISION No.288 of 2022**

Arising Out of PS. Case No.-169 Year-2018 Thana- MANJHI District- Saran

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1. Munshi Mahto Son of Late Satya Narayan Mahto Resident of village - Gouri Mathiya, P.S.- Manjhi, District - Saran.
  2. Ajit Mahto Son of Munshi Mahto Resident of village - Gouri Mathiya, P.S.- Manjhi, District - Saran.
  3. Dhananjay Mahto Son of Late Shiv Pujan Mahto Resident of village - Gouri Mathiya, P.S.- Manjhi, District - Saran.
  4. Dharamnath Mahto Son of Late Dhiv Pujan Mahto Resident of village - Gouri Mathiya, P.S.- Manjhi, District - Saran.

... .. Petitioners

Versus

1. The State of Bihar
2. Ram Pukar Mahto Son of Late Basudeo Mahto R/o Village - Gouri Mathiya, P.S.- Manjhi, District - Saran

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Tej Pratap Singh, Adv.  
For the Respondent/s : Mr. Binod Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA  
ORAL JUDGMENT**

Date : 10-11-2025

Heard learned counsel for the petitioner.

2. The petitioners have filed the present criminal revision petition against the order dated 28.02.2022 passed by learned Additional District and Sessions Judge-XIII, Saran at Chapra in Sessions Trial No. 113 of 2019 whereby the application filed on behalf of the petitioners dated 17.11.2021 and 06.01.2021 were dismissed.

3. Learned counsel for the petitioners submits that the aforesaid two applications was filed by the petitioners for



expunging the evidences of the prosecution on the ground that none of the prosecution witnesses were examined through the government counsel and their evidence were recorded by the private counsel. This is against the provision of Section 225 of the Cr.P.C. Since, the evidence of prosecution witnesses were recorded against the statutory provisions, the evidence recorded of prosecution witnesses was required to be expunged and fresh evidence of prosecution ought to have been recorded. But, this fact was not considered by the learned Sessions Court and the applications filed on behalf of the petitioners were rejected.

4. Perused the record.

5. From perusal of the impugned order, I find that the learned Additional Sessions Judge has taken note of the fact that the attendance of the prosecution witnesses were filed through the learned APP. There was no dispute over identification of any of the witnesses. The defense cross-examined the witnesses without any objection. This fact was also taken note of the learned Additional Sessions Judge that the evidence was recorded before his predecessor and bore his signature.

6. Considering all these facts and circumstances and further finding that no prejudice was caused to defense and the applications was found to be filed only to linger the matter, the applications were dismissed by the learned Additional Sessions



Judge.

7. I do not find any infirmity in the impugned order. The petitioners/defense never took any objection when the witnesses were being examined. Rather, no application challenging the credibility of the witnesses or the witness being examined through private counsel was ever filed. Further, the defense went on to cross-examine the witnesses without demur. Now, at this stage claiming that the evidence of the prosecution witnesses was recorded against the provisions of Section 225 of the Cr.P.C. is simply not sustainable. If the petitioners failed in their duty to take a timely course of action, they can not expect this Court to come to their rescue at this stage and their allegation on this account will remain mere allegation having regard to the facts available on the record.

8. In the light of discussion made herein before, I am of the considered opinion that there is no illegality, impropriety or irregularity in the impugned order. Hence, finding no merit in the criminal revision petition, the same is dismissed.

**(Arun Kumar Jha, J)**

Siddharth Soni/-

AFR/NAFR	NAFR
CAV DATE	NA
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