

Court of A.D.J. Th Benipat

57. 250/21.

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02-08-24.

Both the accused persons have filed a petition for representation. Today the Case is fixed for order on petition dt 16-08-23 filed by the Counsel of defence rejoinder of which was filed by informant on 28-06-24 while U. A.P. for the state only objected the petition.

The accused petitioner submitted that the informant is claiming that the land on which dispute arose is of him. That P.W. no. ⑥ (Informant) Mithilesh Roy in para 48 stated that he can file the document of partition. While P.W. no. ⑦ in para-20 stated that the land is not of accused person and is of his ancestors. So, as the matter relates to dispute on land, it is necessary to call for those documents before Court. Hence the petitioner requests to call for those documents.

Through the rejoinder the informant petition and submitted that all ⑦ examined and no official witnesses need to be examined, the defence does not want to quick disposal

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Court of Addl. Sess. Judge-II, Benapur

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of the Case. That this petition is filed only with view to linger this Case and this petition has no merit at all, hence this petition may be rejected.

Heard Submission of both parties and perused the record. It is pertinent to mention that sec 91 CrPc empowers the court or police to call a document desirable for the purpose of investigation enquiry or trial if the same is necessary for the said purpose. In Case in hand, charges have been framed under Sec-504, 506, 341, 323, 379, 307, 147, 148 and 149 of the IPC. That all these sections are ~~to~~ to be established by the prosecution itself and in such circumstances plea of defence is not tenable because if the Case affects by non production of a document, the prosecution will fall itself. So calling for document to establish a thing by the defence at the time of prosecution is not permissible. So in the light of discussions made herein-before, the petition of the defence is hereby rejected.

fixed if for evidence on 09-08-24

dictated.

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Addl. Sess. Judge-II.