

**IN THE COURT OF ADDL. DISTRICT & SESS. JUDGE-I cum SPECIAL JUDGE,
KAIMUR AT BHABHUA**

I.A. No.-01/2022 in SC/ST Reg. No.- 123 / 2018

SC/ST Bhabhua P.S. Case No.-42/2018

State Vs. Munna Kushwaha & Ors.

11.04.2022 Present Sri Virendra Pratap Singh, learned counsel for the petitioner and Sri Sanjay Singh, learned SPP for the State. The record is put up for order on petition dated 31.03.2021 filed u/s 311 of Cr. PC by the accused petitioner Munna Kushwaha.

ORDER

The petitioner **Munna Kushwaha**, by filing the present petition, has prayed for the recall of prosecution witnesses PW1 Paras Ram, PW2 Munniya Devi, PW3 Kanhaiya Ram, PW4 Sudheer Kumar, PW5 Vijaymal Kumar and PW7 Sandeep Kumar for the purpose of their cross-examination. The case of the petitioner is that the matter between the parties has been compromised and hence, it would in the interest of justice that these witnesses are recalled and an opportunity is given to the petitioner to cross-examine them.

The petition has been opposed by the learned APP stating that it is an attempt by the defence to destroy the case of the prosecution. The witnesses have been examined on various dates and proper opportunity of their cross-examination was also given to the defence and only after their due cross-examination, that the witnesses were discharged. The petitioner is praying for recall of all the prosecution witnesses who testified against the defence, on the ground that the matter has been compromised between the parties. But, the perusal of the record would show that the petitioner is facing allegations of having committed an offence under SC/ST Act, which is not compoundable in nature. Moreover, permitting the petition of the defence at this stage would amount to retrial of the case itself. Not only will it delay the trial but would also destroy the prosecution case. The petition has not been filed bona fide and hence, deserves dismissal.

Heard the counsels and perused the record. The perusal of the record shows that out of the seven witnesses examined by the prosecution in support of its case, the defence has prayed for recalling six witnesses. The witnesses sought to be recalled were examined and duly cross-examined during the trial on various stage and only after their due cross-examination were they discharged. The allegations against the petitioner are non-

Contd.. compoundable in nature. The court is of the view that allowing the petition
11.04.2022 filed by the petitioner at this belated stage would not only delay the trial of
the case but would also destroy the case of the prosecution and hence, it
would not be in the interest of justice. The present petition is, therefore,
hereby **dismissed**.

(Dictated)

Sd/-

Spl. Judge

Kaimur at Bhabhua

