

In the court of Sri Rakesh Kumar, 3<sup>rd</sup> Addl. Sessions Judge, Muzaffarpur

**I.A. No.1/2020  
(In Sessions Trial 672/2016)**

15.02.2020

Heard on the petition dated 13.12.2019 u/s 311 Cr.P.C. preferred by the accused Md. Ashique to recall the prosecution witness 'Bittu' for cross-examination.

It is submitted by the Ld. Counsel for the petitioner that on 02.12.2019 the prosecution witness was examined and cross-examined by another set of lawyer on behalf of other co-accused persons but the petitioner advocate Sri S.P. Srivastava who was conducting the case was out of station and when the junior lawyer Sri Vishwanath Prasad Kaushik appear before the court this witness was discharged due to non cross-examination by the lawyer on behalf of the petitioner. It is further submitted that the petitioner has not knowingly and deliberately failed to produce their lawyer for cross-examination. The petitioner will suffer irreparable loss and injury if this witness is not recalled for cross-examination.

Rejoinder has been filed on behalf of the state. Addl. P.P. appearing on behalf of the state submitted that on 02.12.2019 Pw9 Ataha Imam has been examined and cross-examined by other sets of lawyer but knowingly and deliberately Md. Ashique neither called his lawyer nor cross-examined himself which resulted in discharge of witness. It is further submitted that the Hon'ble High Court has fixed the time period for conclusion of the trial and this petitioner deliberately wants to delay the matter.

From the record of the case, it appears that neither the accused-petitioner himself cross-examined the witness nor he called his advocate for the cross-examination. The accused-petitioner deliberately wants to delay the disposal of the case, in spite of knowing the fact that the Hon'ble High Court has been pleased to fix the time period for disposal of this case. Hence this petition is hereby dismissed.

Sd/-  
3<sup>rd</sup> Addl. Sessions Judge,  
Muzaffarpur  
15.02.2020