

In the court of Sri Rakesh Kumar, 3rd Addl. Sessions Judge, Muzaffarpur

I.A. No.2/2020
(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 person to recall the prosecution witness No.9 for cross-examination.

It is submitted by the Ld. Counsel for the petitioner that on 02.12.2019 the prosecution witness No.9 Ataha Imam was examined and cross-examined by another set of lawyer on behalf of other co-accused persons but the petitioner advocate could not appear in the court in time as he was engaged in another court and by that time the witness was discharged. 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 petitioner 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 one petition dt.13.12.2019 has already on record filed on behalf of Md. Ashique for the recall of this witness which has already been rejected. 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/-
3rd Addl. Sessions Judge,
Muzaffarpur
15.02.2020