

In the Court of Sessions Judge, Samastipur

S.T.No.446 of 2016:224 of 2016

State Vrs. Akhilesh Jha & others

49. 16.03.21

A petition has been filed on behalf of accused dated 06.02.2021 with a prayer to recall the informant for cross-examination in the light of compromise.

Heard Sri Raja Babu Sah, learned counsel for the accused persons and the learned P.P for the State.

According to F.I.R, the accused persons were taking dry leaf of tobacco from the tobacco heap of informant, which the informant protested thereafter, accused Akhilesh Jha attempted with Farsa on his head, causing injury, Bablu Jha assaulted with Lathi and Tuntun Jha has taken away Rs.511/- from the pocket of the informant.

On the Fardbeyan of informant Pankaj Kumar Mishra Sarairanjan Ghatho Police registered Sarairanjan(Ghatho) P.S.Case No.83 of 2014 registered under Sections 341,323,324,379,307/34 of the I.P.C.After completing investigation, police submitted charge sheet under Sections 341,323,324,307/34 of the I.P.C thereafter, charge was framed against the accused persons under Section 341,323,307/34 of the I.P.C. After framing of charge the prosecution has examined one witness Pankaj Kumar Mishra, who is informant/injured of the said case on 26th.July,2019 thereafter, the circumstance has been changed and both the parties have compromised the case and on 16.12.2019 has filed compromise petition duly signed by both the parties and their respective lawyers and after that on 06.02.2021 the accused person has filed a petition

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under Section 311 Cr.P.C to recall the witness for cross-examination on the point of compromise.

The learned P.P has opposed the submission and submitted that as the charge has been framed against the accused persons under non-compoundable offence,as such,compromise is of no mitigating effect over the merit of the case so,there is no question arise to recall the witness,who is author of the case.

Perused the record. I find that the doctor who has examined the injured/informant has found two injury on the person of injured,one is incised wound on front of scalp 2½”X¼X1/5 and another is scratch with bleeding Lt. Parietal region and has also opined that though nature of injury is simple ,but caused by sharp cutting weapon and I further find that the informant who is author of the case has fully corroborated the factum of occurrence and identified the accused persons in the light of torch. Moreover,the charge has been framed against the accused persons under non-compoundable offence,as such,compromise is of no mitigating effect over the merit of the case,as such,there is no question arise to recall the witness on the point of compromise.Hence,prayer to recall the witness is hereby rejected.

Put up on 23.04.21 for evidence.(Dictated)

Sessions Judge