

GAHC010256122024



2024:GAU-AS:12427

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./1493/2024

ROKIBUL ISLAM @ RAKIPUL ISLAM
S/O JAKIR HUSSAIN
R/O VILL- NO. 1 BASHBARI, P.S. MANIKPUR, DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:OSMAN ALI
S/O LATE ASMAT ALI
R/O VILL- NO. 1 BASHBARI
P.S MANIKPUR
DIST. BONGAIGAON
ASSAM

PH. NO. 763802184

Advocate for the Petitioner : MR. M KHAN, MS J AKTAR, MR A K DAS

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

09.12.2024

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 528 of BNSS, 2023 against the impugned order dated 04.11.2024, passed by the learned Special Judge, Bongaigaon in Special (P) Case No. 62(M)/2023.

3. It is submitted by Mr. Khan, learned counsel for the petitioner, that out of 10 (ten) numbers of witnesses, 5 (five) has already been examined and cross-examined. However, due to inadvertent mistake, most the vital points were left to be cross-examined in respect of the witness Nos. 1, 2, 3 & 4. Accordingly, a petition was preferred before the learned Special Judge, Bongaigaon for re-cross-examination of PWs- 1, 2, 3 & 4, but the same was rejected by the learned Special Judge, Bongaigaon vide order dated 04.11.2024 and for which, the present petition has to be filed by the petitioner. He further submitted that one more chance may be given to the present petitioner to re-cross-examine the PWs- 1, 2, 3 & 4 as some vital points are yet to be cross-examined which are necessary for proper adjudication of the matter.

4. Ms. Bora, learned Additional Public Prosecutor, submitted in this regard that it is a POCSO case and there is no such ground mentioned in the petition for recalling of cross-examination of those PWs and accordingly, the learned Special Judge rightly passed the order of rejection dated 04.11.2024.

5. After hearing the submissions made by the learned counsels for both sides, I

have also perused the case record and annexures filed along with the petition.

6. It is seen that the petition for re-cross-examination of PWs- 1, 2, 3 & 4 was filed under Section 311 Cr.P.C. after closure of 5 (five) numbers of PWs. But, it is rightly observed by the learned Special Judge that there is no special ground mentioned in the petition for re-cross-examination of PWs- 1, 2, 3 & 4 and accordingly, I do not find any irregularity or illegality in the order dated 04.11.2024, passed by the learned Special Judge. However, considering the submissions made by the learned counsel for the petitioner and also for the ends of justice, the petitioner is hereby allowed to approach the learned Special Judge, Bongaigaon on or before the next date of listing, i.e. on 04.01.2024, with a fresh application citing the grounds for re-cross-examination of PWs- 1, 2, 3 & 4 and the learned Special Judge will accordingly pass the order in accordance with law.

7. In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant