

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 168 of 2022

Rakesh @ Manas Dalei

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Petitioner

Mr. S. Mishra, Adv.

Vs.

State of Odisha

.....

Opposite Party

Mr. D.K. Mohanty, A.S.C.

CORAM:

JUSTICE SAVITRI RATHO

ORDER

28.10.2022

Order No.

01.

(Through hybrid mode)

1. This is an application under section 482 of the Code of Criminal Procedure, challenging the order dated 28.09.2021 passed by the learned 3rd Addl. Sessions Judge, Bhubaneswar in T.R. No. 60 of 2014 rejecting the petition filed by the petitioner under Section 311 of Cr.P.C. to recall of P.W.22-ACP, Bhubaneswar and P.W.25-I.O. in the case.

2. Mr. S. Mishra, learned counsel for the petitioner submits that as the material objects had not been produced when the witnesses had been initially examined and cross-examined, some questions could not be put to them, for which the application was filed for recalling the two witnesses. But he admits that the questions which were to be put to them are neither mentioned in the CRLMC petition or in the petition filed under Section 311 of the Cr.P.C.

3. Perusal of the order dated 28.09.2021 reveals that the application has been rejected mainly on two grounds. (i) that this Court in BLAPL No.7646 of 2019 vide order dated 30.09.2019 had directed for expeditious conclusion of the trial preferably within a period of two months i.e. 30.11.2019 and (ii) the specific

questions which are required to be put to the above witnesses had not been mentioned in the petition filed under Section 311 Cr.P.C.

4. Mr. Mishra, learned counsel for the petitioner further submits that while rejecting the prayer for bail of co-accused Suraj Kumar Saha in BLAPL No.7646 of 2019 vide order dated 30.09.2019, this Court had directed for expeditious conclusion of the trial. But thereafter, Suraj Kumar Saha had been directed to be released on bail pursuant to order dated 18.02.2020 passed in BLAPL No. 11229 of 2019. UTP Manik Roy who was in custody on that date, has also been released on bail pursuant to the order passed in BLAPL No.7782 of 2021 vide order dated 02.11.2021. Therefore, no prejudice will be caused to any of the co-accused if P.Ws. 22 and 25 are recalled for cross-examination as, all of them are on bail.

5. In view of the above submissions, this application under Section 482 of Cr.P.C. is disposed of granting liberty to the petitioner to file a fresh application under Section 311 Cr.P.C. within a period of two weeks (by 14.11.2022) mentioning the questions which the petitioner wants to put to P.W.22 and P.W.25. If such application is filed within the period as undertaken, the learned trial Court shall do well to consider the application on merit in accordance with law without being influenced by the earlier rejection order dated 28.09.2021.

Issue urgent certified copy as per rules.

Sukanta

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(SAVITRI RATHO)
JUDGE