

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.396 of 2022

Ashok Kumar Dat@Dutta@Datta

....

Petitioner

Mr. P. Ch. Jena, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. S.N. Mishra, A.G.A.

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

05.04.2022

Order No.

01.

1. Heard Mr. P.Ch. Jena, learned counsel for the Petitioner as well as Mr. S.N. Mishra, learned A.G.A. for the State-Opposite Party.

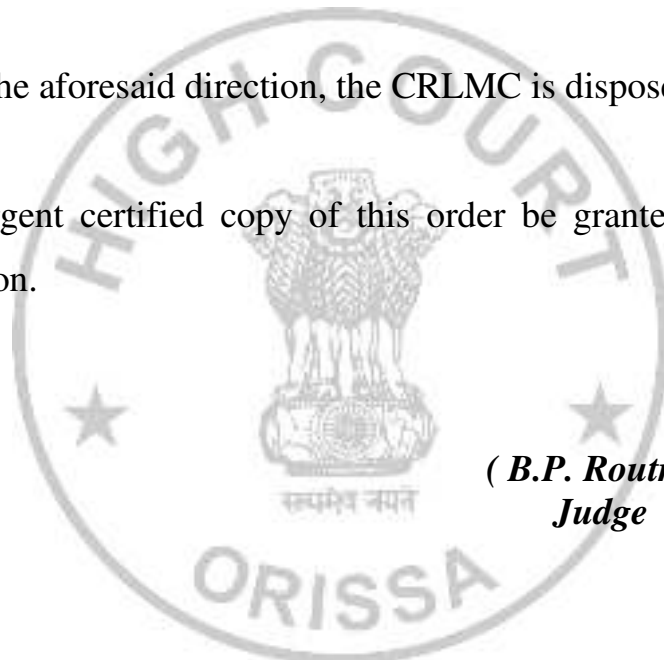
2. Rejection of the prayer to recall P.W.1, the victim, in the trial for offences concerning under Secs.363/366-A/294/506/34, I.P.C., Sec.6 of the POCSO Act and Secs.3(1)(r)(s)/3(2)(va) of the S.C. & S.T. (POA) Act is the subject matter of challenge in the present petition.

3. As per the submission of the counsel for the Petitioner, P.W.1 was not at all cross-examined by the accused due to non-engagement of lawyer on his behalf. A petition under Sec.311, Cr.P.C. was filed on 8.12.2021 praying to recall P.W.1 and other witnesses. The prayer of the Petitioner to further cross-examine P.W.2 & 3 was allowed, but the same was rejected in respect of P.W.1 in view of the restriction contained in Sec.33(5) of the POCSO Act.

4. Upon hearing Mr. Mishra, learned A.G.A. and considering the fact that said P.W.1 was not at all cross-examined by the accused, the prayer to recall P.W.1 for further cross-examination is allowed. Learned trial court is directed to take steps in that regard and fix a suitable date for further cross-examination of P.W.1 by the Petitioner-accused. It is made clear that failing to cross-examine the said witness (P.W.1) on the date so fixed by the learned trial court, no further opportunity shall be granted to the Petitioner.

5. With the aforesaid direction, the CRLMC is disposed of.

6. An urgent certified copy of this order be granted on proper application.



(B.P. Routray)
Judge