

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.455 of 2022

Krushna Chandra Panda and Another* *Petitioners

Mr. Akshaya Kumar Sahoo, Advocate

-versus-

State of Odisha* *Opp. Party

Ms. S. Mishra, Additional Standing Counsel

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
16.3.2022

Order No.

01. 1. Heard Mr. A.K. Sahoo, learned counsel for the Petitioners and Ms. S. Mishra, learned Additional Standing Counsel for Opposite Party – State.
2. Challenge in the present petition is against order dated 3rd February, 2022 of learned Additional Sessions Judge-cum-Special Judge under POCSO Act, Puri in T.R. No.9 of 2015 whereby the prayer of the Petitioners to further cross-examine the I.O. (P.W.11) on recall was rejected.
3. The Petitioners are accused persons. They face prosecution for alleged commission of offences under Sections 376(2)(i)(n)/294/506/323/109/34 of the Indian Penal Code and under Section 4/6 of the POCSO Act. The I.O. (P.W.11) was examined initially on 12th September, 2019 and his cross-examination was declined by the petitioners. The prayer for recall of P.W.11 was allowed on 13th December, 2019 and the I.O. was present on 18th February, 2020. On

the said date the Petitioners failed to cross-examine the said witness. Subsequently another petition was filed praying to recall said P.W.11 which was rejected vide the impugned order.

4. It is submitted on behalf of the Petitioners that since the previous conducting counsel suffered from acute-illness and died subsequently, the I.O. could not be examined on the date fixed. Keeping in view the nature of offences cross-examination of the I.O. is very much necessary for the ends of justice.

5. After hearing Ms. Mishra, learned Additional Standing Counsel for State and considering the fact that the I.O. has not been cross-examined at all, and the grounds stated for the same, the impugned order is set aside in respect of P.W.11 and the learned trial court is directed to permit the Petitioners to cross-examine said P.W.11 (I.O.) by fixing a suitable date. It is made clear that failing to cross-examine the I.O. on the date fixed, the Petitioners shall not be granted any further opportunity for the same.

6. With the aforesaid directions, the CRLMC is disposed of.

7. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge