

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.513 of 2022

Sunil Kumar Panigrahi

....

Petitioner

Mr. Santosh Kumar Mahanty, Advocate

-versus-

State of Orissa and Another

....

Opp. Parties

Ms. S. Mishra, Additional Standing Counsel

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

27.4.2022

Order No.

- 02.
1. Heard Mr. S.K. Mahanty, learned counsel for the Petitioner and Ms. S. Mishra, learned Additional Standing Counsel for Opposite Party – State.
 2. Present petition has been filed challenging order dated 25th November, 2021 of learned Assistant Sessions Judge, Bhanjanagar in S.T. No.24 of 2004 wherein the prayer of the accused to recall the victim (P.W.4) has been rejected.
 3. The Petitioner is the accused in the above trial for alleged commission of offence under Sections 376/417 of the I.P.C. The Petitioner seeks recall of the victim to ask her about her marital status because she has married to another person subsequently and further, about her place of residence prior to the offence.

4. It is submitted that till date only 6 witnesses have been examined in trial.

5. Upon hearing both parties and considering the nature of offences that includes offence under Section 417 of the I.P.C., in the considered opinion of this court the accused – Petitioner should be granted an opportunity to further cross-examine P.W.4 on recall.

6. Accordingly, the impugned order dated 25th November, 2021 is set aside and the learned trial court is directed to grant opportunity to the accused – Petitioner to further cross-examine P.W.4 on recall by fixing a suitable date. It is made clear that if the Petitioner fails to cross-examine said P.W.4 on the date so fixed by the trial court, no further opportunity shall be granted to him for the same.

7. The CRLMC is allowed.

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

(B.P. Routray)
Judge