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IN THE HIGH COURT OF ORISSA AT CUTTACK

C.M.P.No.1742 of 2016

*Pravash Chandra Pradhan @
Prabhas Ch. Pradhan & Ors.*

....

Petitioner(s)

Mr.A.P.Bose, Advocate

-versus-

Sabira Sultan & Ors.

....

Opposite Party(s)

M/s.S.K.Acharya, Advocate,
(For O.P.No.1)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
24.02.2022**

Order No.

06.

1. This Civil Miscellaneous Petition involves a challenge to the order dated 28.10.2016 passed by the Senior Civil Judge, Bargarh in an application under Section 154 of the Indian Evidence Act seeking permission to put the particular witness to cross-examine.
2. Background involving the case is that particular witness, D.W.2 while supporting the D.W.3 to 5 in the chief has retracted from his submission in the chief in his cross-examination by the plaintiff. This being the position, the petitioner applied the trial court for exercise under Section 154 of the Indian Evidence Act to put specific question to such witness to make away to declare such witness hostile. Moot question involved herein in above contingency, there is requirement of an application under Section 154 of the Indian Evidence Act?
3. Undisputedly, defendant nos.3 to 5 have closed examination of D.W.2 and there is even closure of cross-examination of such witness. There is though admission on particular aspect by such witness, unfortunately very witness retracted from his admission in the cross-examination by the plaintiff. Looking to the provision at Section 154 of

the Indian Evidence Act, this Court finds Section 154(1) of the Indian Evidence Act reads as follows:

“154. Question by party to his own witness.- (1) The Court may, in its direction, permit the person who calls a witness to put any question to him which might be put in cross-examination by the adverse party.”

Reading the aforesaid provision this Court finds such a contingency is available only in the case there is possibility of a question to be put in cross-examination by adverse party and in the process application of Section 154 of the Indian Evidence Act can be sought.

4. The case involved herein is there is already closure of chief and cross-examination and the witness is no more required by the adverse party even.

5. In the circumstance, this Court finds there is no scope for exercise under Section 154 of the Indian Evidence Act to the case at hand. There is even rejection of such application by the trial Court. For the reason assigned hereinabove and since there is no contingency of applying Section 154 of the Indian Evidence Act for the background involving the case, this Court is not inclined to entertain this Civil Miscellaneous Application.

6. In the result, the Civil Miscellaneous Petition stands dismissed.

(Biswanath Rath)
Judge

Sks