

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1539 of 2022

Manorama Singh **Petitioner**
versus-
Sunitarani Khadanga **Opposite Party**

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
28.07.2022

01. 1. This matter is taken up through hybrid mode.
2. Mr. D. Nanda, learned counsel enters appearance on behalf of the Opposite Party .
3. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to set aside the order dated 25th April, 2022 passed by the learned J.M.F.C., Bhubaneswar in C.M.C. No.695 of 2016.
4. Heard learned counsel for the Petitioner and Mr. D. Nanda, learned counsel for the Opposite Party.
5. The impugned order dated 25th April, 2022 passed by the learned J.M.F.C., Bhubaneswar in C.M.C. No.695 of 2016 reads as thus:-

“The case record is put up today for orders. Learned counsel for both the parties are present and filed hazira. Learned counsel for the O.P. No.2 filed a petition for recall the petition (P.W.1) for further cross-examination. Learned counsel for the Petitioner vehemently objected to that petition.

Heard learned counsel for both the parties. Perused the case record and considering the prayer of the learned counsel for O.P. No.2, this court is inclined to allow the petition filed by the learned counsel for the O.P. No.2. Hence the petition is allowed. Put up on 13.05.22 for further cross-examination to the petitioner (P.W.1)."

6. No doubt, the trial court has power to recall the witnesses at any time. The power is plenary one. But the same should not be exercised on mere asking of a party. The court before allowing such prayer must reach to a conclusion that examination of the witnesses on recall is essential for just decision of the case. However, the court in the order impugned as quoted supra having not assigned any reasons much less reason germane, the impugned order cannot sustained.

7. Accordingly, the Criminal Misc. Case is allowed. Consequently, the impugned order is set aside and the matter is remitted back to the learned J.M.F.C., Bhubaneswar who shall after hearing both the parties on the said petition pass a reasoned order taking into consideration the law and also the statutory mandate in this regard not later than 15 days of filing of certified copy of this order or receipt of the copy of this order, whichever is earlier. The Petitioner undertakes to file a copy of this order within ten days hence.

8. Urgent certified copy of the order be granted on proper application.

(S. Pujahari)
Judge