

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1553 of 2022

Rajarao Kousalya.

....

Petitioner

-versus-

State of Odisha.

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

30.06.2022

Order No.

02.

1. This matter is taken up through Hybrid mode.
2. The petitioner in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) has prayed for quashing of the order dated 21.03.2022 passed by the learned Adhoc Addl. Sessions Judge (FTSC), Rayagada in T.R. No.52 of 2018 rejecting his petition under Section 311 of Cr.P.C.
3. Heard the learned counsel for the petitioner and the learned counsel for the State.
4. As it appears, before recording of the statement of the accused in the aforesaid case, the petitioner has filed a petition under Section 311 of Cr.P.C. to recall the victim in this case

who was examined as P.W.2. The petitioner has also given the questionnaire therein. The learned trial Court after hearing the parties and taking note of the fact that incisive cross-examination has been made to the victim girl (P.W.2), who is a child witness, refused to recall the said witness.

5. Considering the facts and submissions made, especially the fact that the reason assigned in the impugned order cannot be said to be the reasons germane for dealing with the prayer under Section 311 of Cr.P.C., this Court allows this CRLMC, set-aside the impugned order and directs the Court below to re-address such prayer taking note of the law laid down in this regard and dispose of the said petition by a speaking order not later than seven days of filing of such petition, if the trial is not concluded. However, the petitioner must produce the certified copy of this order before the trial Court within fifteen days hence.

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

(S. Pujahari)
Judge

MRS