

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2206 of 2011

Parsuram Maharana.

....

Petitioner

-versus-

State of Odisha.

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER
04.05.2022

Order No.

- 08.
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 27.06.2011 passed by the learned J.M.F.C., Anandapur in G.R. Case No.150 of 2003 rejecting his petition filed to call for the case record in G.R. Case No.151 of 2003 and summon the Doctor and Investigating Officer to be examined as defence witnesses.
 3. Heard the learned counsel for the petitioner and the learned counsel for the State.
 4. As it appears, the trial Court has refused to accept the prayer of the petitioner to call for the case record in G.R. Case

No.151 of 2003 and issue summon the doctor and the Investigating Officer in G.R. Case No.151 of 2003 to depose evidence in this case, on the ground that the said case is not a counter case to the present case, inasmuch as the said case has already been disposed of earlier. Hence, the petitioner has come to this Court to challenge the same in this CRLMC.

5. It is the case of the petitioner that the present case is a counter case to G.R. Case No.151 of 2003 which was already disposed of earlier. However, the trial Court having not tried the same in the manner as the case and counter case are required to be tried and furthermore, the prayer of the petitioner having been refused, unless the same is allowed, the petitioner will be materially prejudiced.

6. Needless to say that the trial Court has already held that G.R. Case No.151 of 2003 is not a counter case to the present case, inasmuch as the Investigating Officers in both the case were distinct and different. But, the petitioner having emphatically stated that G.R. Case No.151 of 2003 is a counter case to the present case and there is no mandate that case and counter case should be investigated by the same Investigating Officer, the Court without examining the same, could not have denied the same.

7. Therefore, I allow this CRLMC, set-aside the impugned order and direct the Court concerned to call for the case record in G.R. Case No.151 of 2003 and in the light of the materials

available therein, shall consider the prayer of the petitioner afresh not later than one month from the date of receipt of the certified copy of this order.

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

(S. Pujahari)
Judge

MRS

