

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1906 of 2022

Jaga Naik @ Nayak

....
Mr. Datatraya Behera, Advocate

Petitioner

-Versus-

State of Odisha

....
Mr. P.K. Rout, AGA

Opposite Parties

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
20.09.2022

Order No.

- 01.
1. Heard learned counsel for the petitioner and learned counsel for the State.
 2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner challenging the impugned order dated 4th January, 2022 passed in G.R. Case No.147 of 2017 pending in the court of learned Special POCSO Act, Judge, Berhampur and declining to recall PWs. 1 and 3 while rejecting the application under Section 311 Cr.P.C.
 3. Learned counsel for the petitioner submits that some relevant questions are to be put to PWs.1 and 3 namely the informant when the same was rejected by the learned court below without any justification. While claiming so, learned counsel for the petitioner refers an application moved u/s.311 Cr.P.C. filed before the learned Special POCSO Act Judge, Berhampur, a copy of which is annexed as Annexure-3.
 4. Learned Additional Government Advocate for the State submits that the questions are not relevant and therefore likely to decline to call P.Ws.1 and 3 for the purpose of further examination that apart both have been examined, cross-examined in the matter

since the year 2019 and therefore there has been a delay of three years in approaching this Court.

5. The Court perused the questionnaire and finds that all the questions sought to be put to the P.Ws. 1 and 3 are not relevant and as regard the age of the FIR whether the incident has happened or not. Therefore, the Court has right rejected the application of the petitioner to recall PWs 1 and 3. It is submitted that at least the said witnesses should be recalled for the purpose of cross-examination and to put some suggestion to them which the Court is not inclined to grant. In fact, considering the deposition of P.Ws. 1 and 3, it reveals that both the witnesses have been previously examined by the learned court below, therefore, there is no reason to call the PWs 1 and 3 for the purpose of further cross-examination and therefore merely giving suggestion cannot be allowed. Accordingly, this Court is not inclined to recall the order dated 4th January, 2022 passed by the learned Special POC SO Act, Judge, Berhampur in G.R. Case No.147 of 2017 filed under Sections 311 Cr.P.C. which is subsequently dismissed.

U.K.Sahoo

(R.K. Pattanaik)
Judge