

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1914 of 2022

Sukanta Naik

....

Petitioner

Ms. Rita Singh, Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Mr. S.S. Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
20.10.2022

Order No.

19.

1. Heard learned counsel for the petitioner and Mr. Mohapatra, learned counsel for the State-opposite party No.1.
2. Instant petition under Section 482 of Cr.P.C. is filed for challenging the impugned order dated 20th April, 2022 passed in Special G.R. Case No. 74 of 2018 by the court of learned Additional District & Sessions Judge, Cuttack on the grounds stated therein.
3. Perused the copy of the F.I.R. which is at Annexure-1.
4. The challenge is as to the denial of recall of P.W.1, namely, the victim by the learned court below for the purpose of further cross-examination which was apparently moved to bring the fact of compromise in to the evidence and the same was not entertained by the learned court below and it was rejected by the impugned order under Annexure-4.

5. Mr. Mohapatra, learned counsel for the State submits for such a purpose, P.W.1 could not have been recalled and further cross-examined and therefore, rightly the learned court below rejected the application moved under Section 311 Cr.P.C. and hence, it needs no interference. On the other hand, learned counsel for the petitioner submits that it should have been allowed, as in the meantime, the parties have resolved the dispute and reached at a settlement/compromise.

6. On such ground, in the considered view of the Court, P.W. 1, namely, the victim cannot be recalled for further cross-examination by the defense and hence, the learned court below did not err or commit any illegality in rejecting the application under Section 311 Cr.P.C. and therefore, it has to be held that the impugned order under Annexure-4 does not suffer from any legal infirmity.

7. Accordingly, it is ordered.

8. In the result, the CRLMC stands disposed of. However, the petitioner is at liberty to apply for quashing of the proceeding provided the same is permitted in law on such ground of compromise.

9. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

kabita

