

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1954 of 2022

Rama Chandra Tudu

....

Petitioner

-versus-

State of Odisha (Vigilance)

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

27.07.2022

Order No.

- 01.
1. This matter is taken up through Hybrid mode.
 2. Heard learned counsel for the Petitioner and learned Standing Counsel for the Vigilance Department.
 3. Petitioner has sought for quashment of the order dated 30.06.2022, passed by the learned Special Judge, Vigilance, Baripada in VGR No.14 of 2003/T.C. No.147 of 2013.
 4. Petitioner has assailed the aforesaid order on the ground that since the case is a year old one and he is facing the trial for a long period with a stigma of accusation, the Court could not have summoned the witnesses without pronouncing the judgment after the case was posted for judgment.
 5. The aforesaid order has been defended by the learned counsel appearing for the Vigilance Department. According to him, since the Court has felt essential for examination of the witnesses for just decision of the case and the power under

Section 311 Cr.P.C. being available to the Court to summon any witnesses at any stage of the enquiry or trial, if the evidence of the witnesses sought to be examined appears to be essential for just decision of the case. Since the Petitioner has a chance to cross-examine the said witnesses, the same was going to cause no prejudice to the Petitioner. Hence, the challenge to the order is without any substance.

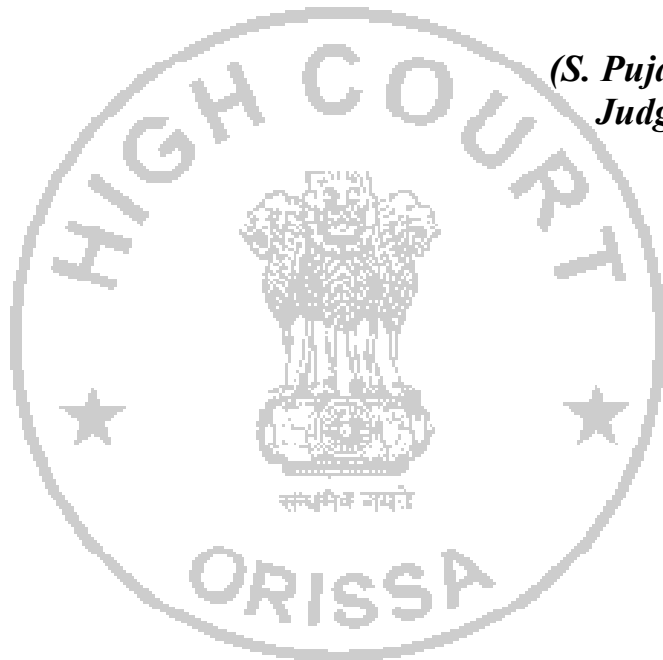
6. Perusal of the impugned order would go to show that the court at the stage of judgment in a case of disproportionate assets thinks it proper to examine some of the witnesses for just decision of the case, invoking the power under section 311 Cr.P.C. The witnesses if examined, the accused would be given ample opportunity to test the veracity of their version through cross-examination. Examination of an witness can be made at any stage of the enquiry or trial in exercise of power u/s.311 Cr.P.C. even if he is not cited as a witness on the prayer of the parties, has since been well settled. In such premises, the wisdom of the court to examine the witnesses as mentioned in the order cannot be questioned to be illegal and arbitrary even though the case is posted for judgment more so when the same was going to cause no prejudice to the petitioner, for the reasons stated earlier.

7. In the facts and circumstances, this Court finds no illegality or infirmity in the impugned order invoking the power under Section 482 Cr.P.C. Accordingly, the CRLMC stands dismissed.

8. However, the case being an year old one, the court should not wait for time immemorial for examination of the witnesses. Therefore, unless the witnesses are examined within three months from the date of receipt of the certified copy of this order, the Court should close the case, hear the argument and render the judgment within two months thereafter.

9. With the above direction, the CRLMC stands disposed of.

Uks



(S. Pujahari)
Judge