

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2028 of 2022

Jameswar Nath Sharma

....

Petitioner

Mr. Rabinarayan Mohanty, Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Mr. T.K.Praharaj,SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

12.10.2022

Order No.

- 01.
1. Heard learned counsel for the petitioner and learned counsel for the State.
  2. Instant petition is filed under Section 482 Cr.P.C. at the behest of the petitioner challenging the correctness and legality of the impugned order dated 31<sup>st</sup> March, 2022 passed in I.C. C. Case No. 135 of 2017 by the learned JMFC, Bhubaneswar on the grounds stated therein.
  3. Learned counsel for the petitioner submits that he had no opportunity to cross-examine opposite party No.2, who is the complainant and in so far as the proceeding is concerned, it is under Section 138 of the N.I.Act. It is further submitted that unless the petitioner is allowed to cross-examine opposite party No.2, the former would be prejudiced and therefore, it should be permitted in the interest of justice. According to the learned counsel for the petitioner though the case was posted for cross-examination but due to unavoidable circumstances, the opportunity could not be availed of and

now it is pending at the stage of argument but considering the fact that opposite party No.2 has not at all been cross-examined, as a last opportunity should be provided which is objected to by Mr. Praharaj, learned counsel for the State on the ground that as per the impugned order under Annexure-2, several opportunities were given to the petitioner to cross-examine P.W. 1, namely, opposite party No.2 but it was not availed and therefore, at the fag end, it should not be allowed.

4. The Court perused the impugned order under Anneuxre-2 wherein it is held that the petitioner was allowed to cross-examine P.W. 1 and number of opportunities was given to him, however, with a purpose to delay the proceeding, the same was not availed of.

5. Learned counsel for the petitioner submits that the case is still pending disposal at the stage of argument. Considering the above facts and recording the submission that the petitioner has not at all cross-examined opposite party No.2, the Court is of the opinion that a last chance should be provided to him subject to costs which would serve the purpose and meet the ends of justice.

6. Accordingly, it is ordered.

7. In the result, the CRLMC stands allowed subject to cost of Rs.1,000/- payable to opposite party No.2 with a direction to the learned JMFC, Bhubaneswar to allow cross-examination of opposite party No.2 at the instance of petitioner in connection with I.C.C. Case No. 135 of 2017 and fix a specific date for the said purpose and thereafter, on its completion shall ensure disposal of the complaint as early as possible. It is made clear that no adjournment shall be allowed by the court below to the petitioner for cross-examination of the opposite party No.2 which shall be accomplished on the date fixed itself.

8. The above order shall not be given effect to if in the meantime the complaint in I.C.C. Case No. 135 of 2017 has already been disposed of.

9. A copy of the order be immediately sent to the learned court below forthwith for compliance.

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



(R.K. Pattanaik)  
Judge