

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No. 3539 of 2017

V. Chandrasekharam Raju ***Petitioner***
On behalf of
Mr. Sanjiv Udgate, Advocate
-versus-
Pratima Sabat ***Opposite Party***
On behalf of
Mr. Suvashis Pattnaik, Advocate

CORAM:
THE CHIEF JUSTICE

Order No.

ORDER
23.12.2022

05. 1. The challenge in the present petition under Section 482 of the Code of Criminal Procedure, 1973 is to an order dated 6th September, 2017 passed by the learned Special Judicial Magistrate, Berhampur, Ganjam in I.C.C. No.80 of 2016. By the said order, the trial Court declined the request of the present Petitioner i.e. Complainant to recall PW 1 for re-examination. At the same time, the trial Court permitted the recall of the same witness for cross-examination by the accused subject to payment of witness expenses.
2. While notice was issued in the present petition on 4th April, 2018 the further proceedings in the aforementioned I.C.C. Case No.80 of 2016 was stayed by this Court. That stay order has continued since.

3. Considering that the trial has already now got delayed over four years, the Court considers it appropriate to set aside that portion of the impugned order of the trial Court dated 6th September, 2017 which declines the prayer of the present Petitioner for recall of PW 1 for the purposes of further examination-in-chief. In any event, the defence would have the right of further cross-examination of the same witness which in any event has been allowed to the defence by the same impugned order. Consequently, this Court sets aside that portion of the impugned order and permits the recall of PW 1 first for further examination-in-chief by the complainant and then for cross examination by the defence.

4. The matter shall now be listed before the trial Court on 13th February, 2023 and the trial Court will proceed with the matter in accordance with law by recalling PW 1 in the above terms.

5. The petition is disposed of. The interim order passed earlier stands vacated.

6. An urgent certified copy of this order be issued as per rules. A copy of this order be communicated to the concerned Subordinate Court forthwith.

(Dr. S. Muralidhar)
Chief Justice