

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.378 of 2022

Bhaskar Behera* *Petitioner

Mr. S.K. Bhanjadeo, Advocate

-versus-

***State of Odisha and* *Opp. Parties*
another**

Smt. Susama Rani Sahoo,
Addl. Standing Counsel
(For O.P. No.1)

Mr. Jyotirmaya Sahoo, Advocate
(For O.P. No.2)

CORAM:
JUSTICE S.K. SAHOO

ORDER
06.09.2022

Order No.

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

This revision petition has been filed challenging the order dated 7th June, 2022 passed by the 1st Additional Sessions Judge, Khurda in S.T. No.79 of 2015, in which, the petition under section 311 of Cr.P.C. filed by the petitioner to recall P.W.19 (I.O.) for further cross-examination has been rejected.

Learned counsel for the petitioner contended that since some material questions could not be put to P.W.19 (I.O.), the petition under section 311 of Cr.P.C. was filed from the side of the accused petitioner, but without considering the relevancy of filing of such a petition, the trial Court

mechanically rejected such petition on the ground that the learned counsel for the defence has already cross-examined the P.W.19 (I.O.) at length. He further submits that for the just decision of the case, the prayer made in the recall petition be allowed and the petitioner may be given an opportunity to further cross-examine P.W.19.

Learned counsel for the Opposite Party No.2-Informant on the other hand submits that earlier such petition was filed by the petitioner to recall the Investigating Officer in the trial Court and after it was rejected, the same was challenged before this Court by the petitioner in CRLMC No.927 of 2020, which was dismissed as withdrawn. He further submits that the case is now posted for argument and just to linger the proceeding, the dilly dallying tactics has been adopted by the learned defence counsel in filing such frivolous petitions. Therefore, the learned trial Court is quite justified in rejecting the petition of the petitioner.

There is no dispute that the case of the year 2013 and sessions trial is of the year 2015 and the case is at the stage of argument.

On perusal of the deposition of P.W.19, it appears that the learned defence counsel after cross-examining the witnesses which runs to three paragraphs has closed the cross-examination and thereafter the witness was discharged. The recall petition which was filed from the side of the defence has been annexed as Annexure-3 to this revision petition which indicates that there is no schedule of questions required to be put to P.W.19 (I.O.). When a particular witness has been examined, cross-examined and he has been discharged, if any questions are left out and those questions are material questions, either side can file a

petition to recall the witness, but they are to mention the questionnaire so that the learned trial Court would be in a position to verify the questions and decide as to whether it would be in the interest of justice to allow the recall petition or not by putting the questions to the witness.

In absence of any questions mentioned in the petition under section 311 of Cr.P.C. and when the witness has been thoroughly cross-examined, I find that the learned trial Court has committed no illegality in rejecting the petition filed and in absence of the perversity in the impugned order, the Criminal Revision is dismissed.

The learned trial Court shall do well to expedite the argument and pronounce the judgment at an earliest.

This order be communicated to the trial court for compliance.



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