

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2324 of 2022

Bena @ Dhusa Sahu

.... Petitioner
Mr. Sk.Zafarulla , Advocate

-Versus-

State of Odisha & Another

.... Opposite Parties
Mr.P.K.Rout, AGA

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
12.09.2022

Order No.

01. 1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner challenging the order dated 23rd March, 2022 passed in Special Case No.247 of 2020 arising out of Nilgiri P.S. Case No.311 of 2020 by the court of learned Adhoc Additional Sessions Judge (FTSC), Balasore on the grounds stated therein.
3. Mr. Zafrulla, learned counsel for the petitioner submits that in fact it is not the order of cognizance but the rejection order dated 23rd March, 2022 passed by the learned Adhoc Additional Sessions Judge (FTSC), Balasore in relation to denial to recall P.W. 3 namely, the victim is under challenge contending that that such denial is improper and unjustified since she had not been put some relevant questions and confronted with contradictions. It is further submitted that P.W. 3 is sought to be recalled as so as to question her regarding the spot of the occurrence and also about its timing besides certain contradictions and on medical examination report.

4. Learned counsel for the State on the other hand submits that there is no error committed by the learned court below in denying the request of the petitioner to recall P.W. 3 and therefore, it should not be disturbed. The Court does not find any specific questions to have been prepared by the petitioner so as to confront the same to the victim. Though from Annexure-4, it is made to appear that P.W. 3 is sought to further cross-examine on the spot of occurrence and timing with some contradictions and also with regard to the medical examination report, the same is not specific. At this juncture, the learned counsel for the petitioner submits that the petitioner may be given an opportunity and liberty to approach the learned court below by filing a fresh petition with a questionnaire which would serve the purpose instead.

5. Considering the above submission of Mr. Zafrulla, CRLMC stands disposed of with liberty granted to the petitioner to renew the prayer before the learned court below by filing of a fresh application with a questionnaire and the questions specific to be put to P.W. 3 and also the contradictions and in such an event if it is moved, the court shall examine and consider the same and pass appropriate order thereon as per and in accordance with law.

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

(R.K. Pattanaik)
Judge