

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2585 of 2022

S.Ekadasi Reddy

.... **Petitioner**
Mr. J.Sahoo, Advocate

-Versus-

State of Odisha

.... **Opposite Party**
Mr. T.K.Praharaj, AGA

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
28.09.2022

Order No.

02.

1. Heard learned counsel Mr. Sahoo appearing for the petitioner and Mr. Praharaj, learned Standing Counsel for the State.
2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioner assailing the impugned order passed in G.R. Case No. 44 of 2018 by the learned Special Judge under POCSO Act, Berhampur, who declined to recall P.W. 2 and rejected an application under Section 311 Cr.P.C. filed in that respect.
3. Mr. Sahoo, learned counsel for the petitioner submits that P.W. 2 is required to be further cross-examine since he is to be confronted with some questions which are relevant to the case. While contending so, the deposition of P.W. 2, who is the victim, is produced before the Court today and the same is perused. The Court also perused the copy of the petition which is at Annexure-1 which contains the questionnaire. However, the Court does not find the

questions to be so relevant rather it appears vague and that apart, P.W. 2 has been examined and cross-examined and discharged in the year 2019. Considering the nature of questionnaire to recall P.W. 2 for the purpose of further cross-examination, the Court is not inclined to interfere with the impugned order under Annexure-2. In fact, the learned court below declined to exercise discretion as the application for recall of P.W. 2 was moved almost after three years from the date of last examination of the said witness.

4. However, at this juncture, Mr. Sahoo submits that he may be granted the liberty to move the learned court below afresh by making a proper application by stating all the relevant questions which are required to be confronted to P.W. 2.

5. Considering the above prayer, the CRLMC stands disposed of with a liberty granted to the petitioner to file a fresh application in terms of Section 311 Cr.P.C. before the court of learned Special Judge, POCSO, Berhampur, Ganjam notwithstanding the delay, which on being so moved with a prayer for further cross-examination P.W. 2, the same shall be considered and decision thereon shall be taken on merits provided the questions are relevant.

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

(R.K. Pattanaik)
Judge