

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2709 of 2022

Rajat Kumar Bindhani

....

Petitioner

Mr. Suryakanta Dwibedi, Advocate

-Versus-

Sudhansu Das

....

Opposite Party

None

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

12.10.2022

Order No.

01.

1. Heard learned counsel for the petitioner.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner assailing the impugned order dated 6th August, 2022 passed by the learned J.M.F.C., Betnoti in ICC Case No.41 of 2019 on the grounds stated therein.
3. In fact, an application under Section 311 Cr.P.C. was filed by the petitioner to recall the complainant-P.W.1 for further cross-examination but the same was declined by the learned court below vide its order under Annexure-1.
4. Learned counsel for the petitioner submits that P.W.1 is required to be further cross-examined to ascertain his financial capacity as he claimed to have parted with an amount of Rs.10 lac as hand loan. It is contended that since no question has been put during his last cross-examination i.e. on 17th May, 2022 in that regard, for the said purpose, the application under Section 311 Cr.P.C. was moved but then, the learned J.M.F.C., Betnoti rejected it by the impugned order under Annexure-1.
5. While claiming so, learned counsel for the petitioner produces a copy of the deposition of P.W.1, namely, opposite party

and the same is perused by this Court. It is found that only a suggestion was put to P.W.1 with regard to the alleged transaction. The Court however does not find any questionnaire submitted before the learned court below while claiming for recall and further cross-examination of P.W.1. At this juncture, learned counsel for the petitioner submits that liberty should be granted to the petitioner to file a fresh application under Section 311 Cr.P.C. containing therein all the relevant questions to be confronted to P.W.1 vis-à-vis the transaction in question and in particular, his financial capacity to provide hand loan for such an amount, which would serve the purpose and meet the ends of justice which the Court is inclined to. Accordingly, it is ordered.

6. In the result, the CRLMC stands disposed of with liberty granted to the petitioner to move an application under Section 311 Cr.P.C. afresh in connection with ICC No.41 of 2019 with a questionnaire having all the relevant questions with regard to the financial capacity of P.W.1 to go for such a transaction of hand loan and in case so moved, the learned J.M.F.C., Betnoti shall examine it and pass appropriate order in accordance with law.

7. Liberty is also granted to the petitioner to seek an adjournment before the learned court below on the next date since the matter is posted for defence evidence in order to facilitate him filing an application under Section 311 Cr.P.C. and if so prayed for, it shall be considered favourably.

8. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge