

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2839 of 2022

Rabindra Sethi

.... **Petitioner**
Sk. Zafarulla, Advocate

-Versus-

State of Odisha

.... **Opposite Party**
Mr. P.K. Rout, AGA,

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
17.10.2022

Order No.

- 01.
1. Heard learned counsel for the petitioner and learned Additional Government Advocate for the State.
 2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner challenging the impugned order dated 14th September, 2022 passed by the learned J.M.F.C., Panposh, Rourkela in G.R. Case No.911 of 2022 corresponding to Rourkela cyber Crime P.S. Case No.07 of 2022 on the grounds stated therein.
 3. Sk. Zafrulla, learned counsel for the petitioner submits that there has been no cross-examination of P.Ws.1 and 2 on the occasion which is revealed from Annexure-1 which contends that such recall in terms of Section 311 Cr.P.C. is declined by the court below on the ground that there has been no specific question mentioned which are required to be put to the witnesses. Sk. Zafrulla, learned counsel for the petitioner further submits that further witnesses namely P.Ws.1 and 2 were cross-examined on 10th August, 2022 but no elaborate evidence has collected. It is submitted on the date fixed the conducting counsel was sick

therefore such elaborate cross-examination cannot be held during examination of the P.Ws.1 and 2 and subsequently they were discharged by the court below.

3. Mr. Praharaj, learned Standing Counsel for the State submits that the witnesses have been examined that apart the court did not allow the application under Section 311 Cr.P.C. without any questionnaire to put to the said witnesses. Court perused the deposition of P.Ws.1 and 2. In fact on 10th August, 2022, P.Ws.1 and 2 were examined, cross-examined and discharged. But from the deposition as at Annexure-1, it is further appeared that the cross-examination from the side of the defence is not elaborate.

4. Considering the above submission of learned counsel for the petitioner as well as learned counsel for the State, the Court is of the view that P.Ws.1 and 2 should be recalled for the purpose of further cross-examination by the petitioner. In other words, it is a fit case where the said witnesses should be recalled for elaborate examination of the said witnesses.

5. As a necessary corollary, this Court ought to have direct recall of the P.Ws.1 and 2 in terms of Section 311 Cr.P.C. as has been prayed by the petitioner. Accordingly, it is ordered.

6. In the result, the petitioner stands allowed. Consequently, Annexure-3 is set aside by the learned court below and recalled P.Ws.1 and 2 for the purpose of further cross-examination the learned court below shall fix up the date for the above period.

8. CRLMC accordingly allowed.

9. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge

