

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3035 of 2022

Kishore Chandra Jena and Another

Petitioners

Mr. S.R. Mulia, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

04.11.2022

Order
No.

01.

1. Heard learned counsel for the petitioners and learned Standing Counsel for the State.

2. Present challenge is as to the impugned order under Annexure-2 passed in C.T. Case No.36 of 2015 by the learned P.O. Designated Court, Cuttack whereby recall of P.W.1 was rejected.

3. Learned counsel for the petitioners submits that P.W.1's recall is necessary in order to confront him with regard to return of money and it is material, the learned court below should have allowed his further cross-examination but without any reason, rejected it vide impugned order under Annexure-2. Mr. Praharaj, learned counsel for the State on the other hand submits that the P.W.1 was recalled once pursuant to the orders of this Court and was cross-examined and discharged and therefore, there is no need for his recall once again.

4. Learned counsel for the petitioners submits that the case is pending at the stage of argument and before that only a single question is to be put to P.W.1 with regard to refund of money which is essential and while claiming so, deposition of P.W.1 is produced before the Court today. Neither there is any detail

mentioned in the deposition of P.W.1 with regard to the manner and mode of refund of money to P.W.1 nor anything is reflected in the petition under Section 311 Cr.P.C., a copy of which is at Annexure-1. Since a claim is advanced by the petitioners regarding the refund, the Court is of the view that an opportunity to file better application before the learned court below should be provided to them for consideration which would serve the purpose and meet the ends of justice.

5. Accordingly, it is ordered.

6. In the result, CRLMC stands disposed of with a liberty granted to the petitioners to file a fresh application under Section 311 Cr.P.C. providing details with regard to transactions they had with P.W.1 claiming recall and further cross-examination and in the event, the same is filed, the court of learned P.O., Designated Court, Cuttack, shall consider the same and pass appropriate orders thereon on merit.

7. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge