

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3139 of 2022

Narayan Behera @ Naran & Others Petitioners
Mr. Devashis Panda, Advocate

-Versus-

State of Odisha & Another Opposite Parties
Mr. Tapas Kumar Praharj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
02.11.2022

Order No.

01. 1. Heard learned counsel for the petitioners and Mr. Praharj, learned counsel for the State.
2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioners assailing the impugned order dated 10th October, 2022 under Annexure-2 passed in C.T. (SS) Case No. 23 of 2018 arising out of Gondia P.S. Case No. 65 of 2017 corresponding to G.R. Case No. 484 of 2017 by the learned Sessions Judge, Dhenkanal whereby an application under Section 311 Cr.P.C. moved by them for recall of P.W. 14, namely, the I.O. was declined.
3. Mr. Panda, learned counsel for the petitioners submits that P.W. 14 has not been elaborately cross-examined on 8th August, 2022 for the reason that the conducting counsel prayed for an adjournment which was not entertained. In fact, on the date fixed, P.W. 14 was cross-examined and according to Mr. Panda, learned counsel appearing for the petitioners, it could not be elaborate. While claiming

so, a copy of the deposition of P.W. 14 which is at Annexure-2 is referred to by Mr. Panda. The Court finds that the cross-examination of P.W. 14 by the defence on 8th August, 2022 has not been elaborate. Mr. Panda, learned counsel for the petitioners submits that since it is a case of dowry death, an opportunity should be provided to the defence to cross-examine P.W.14 in full who is a material witness being the I.O..

4. Mr. Praharaj, learned counsel for the State on the other hand submits that in fact the conducting counsel was present on the date of examination of P.W. 14 and he had applied for time which was rejected by the learned Sessions Judge.

5. Considering the fact that P.W. 14 is the I.O. and there has no elaborate cross-examination of said witness from the side of defence on 8th August, 2022, the Court is of the considered view that in order to do complete justice, the defence should be provided an opportunity to recall and further cross-examine him which would serve the purpose and meet the ends of justice.

6. Accordingly, it is ordered.

7. Consequently, CRLMC stands allowed with a direction to the learned Sessions Judge, Dhenkanal to allow recall of P.W. 14 for further cross-examination at the instance of the petitioner in connection with C.T. (SS) Case No. 23 of 2018 and to ensure it and complete the process soon after a copy of the order is received.

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

(R.K. Pattanaik)
Judge