

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3369 of 2022

Budha @ Padmalochan Jena and
Others

....

Petitioners

Mr. Sk. Zafarulla, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
29.11.2022

Order
No.
03.

1. Heard learned counsel for the petitioners and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners assailing the impugned order dated 13th September, 2022 passed in S.T. Case No.42 of 2017 arising out of Basudevpur P.S. Case No.383 of 2015 by the learned Assistant Sessions Judge, Basudevpur whereby application under Section 311 Cr.P.C for recall and further cross-examination of P.Ws. 3 and 4 was rejected.
3. A copy of the impugned order is at Anenxure-3.
4. An FIR was lodged in the year 2015 as a result of which Basudevpur P.S. Case No.383 of 2015 was registered under Section 307 IPC and other allied offences and at last post submission of chargesheet, the charge was framed and trial commenced during

and in course of trial, an application under Section 311 Cr.P.C. was moved by the petitioner to recall P.Ws.3 and 4 for further cross-examination which was disallowed vide Annexure-2.

5. Learned counsel for the petitioners submits that the questions which are relevant and to be put to the witnesses have been detailed in Annexure-2 and therefore, P.Ws.3 and 4 are required to be recalled for further cross-examination, the fact which was not appreciated by the learned Sessions court even and consequently passed the impugned order under Annexure-3. Mr. Zafarulla, learned counsel for the petitioner made the Court to go through the questionnaire in Annexure-2 to satisfy the purpose of further cross-examination of P.Ws.3 and 4. Mr. Praharaj, learned counsel for the State on the other hand submits that both the witnesses have been cross-examined and discharged in the year 2017 and 2018 and there is no need of further cross-examination at the present stage and justifies the impugned order under Annexure-3.

6. The Court perused the questionnaire mentioned in Annexure-2. Some of the questions are found to be not so relevant and in so far as P.Ws.3 and 4 are concerned, they have been cross-examined at the length with regard to the alleged incident. There also a question to be put P.Ws.3 and 4 with regard to compromise as appears in Annexure-2.

7. The Court is of the view that the question not being specific rightly the learned court below declined to recall P.Ws.3 and 4.

8. At this juncture, Mr. Zafarulla, learned counsel for the petitioners submits that liberty should be granted to the petitioners

for filing a better application indicating therein the relevant questions to be put to P.Ws.3 and 4.

9. Considering the above limited prayer, CRLMC stands disposed of granting liberty to the petitioners to file a better application under Section 311 Cr.P.C. in connection with S.T. Case No.42 of 2017 corresponding to Basudevpur P.S. Case No.383 of 2015 and in the event, any such application so moved by them, the learned Assistant Sessions Judge, Basudevpur shall consider it and pass appropriate order as per and in accordance with law without being influenced by any of the observations made by this Court in the above order.

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

(R.K. Pattanaik)
Judge

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