
(2004) 03 OHC CK 0025

In the Orissa High Court

Case No : Criminal M.C. No. 598 of 2004

Gangadhar Jena and Others

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 25-03-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 311

Citation : (2004) CLT 948 (Suppl CrI) : (2004) 29 OCR 126 : (2004) 2 OLR 182 : (2004) OLR 948 (Suppl CrI)

Hon'ble Judges : L. Mohapatra, J

Bench : Single Bench

Judgement

1. Heard learned Counsel for the petitioners and the learned Addl. Standing Counsel.

2. Order dated 20.1.2004 passed by Learned Addl. Sessions Judge, Bhadrak in S.T. No. 13/13 of 2001 rejecting the prayer of the petitioners for recalling P.W. 17 (I.O.) for further cross-examination is under challenge. Though it is mentioned in the petition that P.W. 17 had recorded the statement of P.W. 16 and certain material contradictions can be brought out by the cross-examination and the same could not be confronted to her, the prayer was made to recall the said witness. The petition has not been disposed of on merit at all and learned Addl. Sessions Judge rejected the petition solely on the ground that the petitioners have approached this Court for early disposal of the Sessions Case and at the same time filed an application u/s 311, Criminal Procedure Code (CrPC) Learned Addl. Sessions Judge lost sight of the fact that the petitioners who are facing trial are in custody and there is no reason for them to cause delay in the trial while in custody. In my view, learned Addl. Sessions Judge should have considered the application on merit instead of rejecting the same on the ground as mentioned in the order. I, therefore, set aside the order dt. 20.1.2004 and direct the learned Addl. Sessions Judge to reconsider the application on its own merit and pass appropriate orders.

3. The CRLMC is disposed of accordingly.