

CRLMC No.1556 of 2020

02. 27.11.2020

This matter is taken up through video conferencing.

Heard learned counsel for the petitioner as well as learned counsel for the State-opposite party.

Invoking the jurisdiction under Sec.482, Cr.P.C., the petitioner has challenged the order dated 3.3.2020 passed by the learned Sessions Judge, Kendrapara in S.T. Case No.192 of 2018 wherein the application filed by the petitioner under Sec.311, Cr.P.C. to recall P.W.7 has been rejected.

It is submitted by learned counsel for the petitioner that on the date fixed, i.e., 18.12.2018, the said P.W.7 was examined and cross-examined by the defence counsel for accused Asish. But the counsel for the present petitioner, namely, Bulu@Sumanta Das, who is also a co-accused in the said case, could not cross-examine the said P.W.7 due to illness of the defence counsel appearing for the present petitioner. It is further submitted that since the trial is for the offence under Sec.302, I.P.C., the petitioner will lose his valuable right of cross-examination in case the witness is not recalled for the purpose. It is further submitted that for the default of his lawyer, the petitioner has lost his valuable right. Accordingly, it is prayed to permit him to cross-examine said P.W.7 upon recall. It is also submitted that out of 53 charge-sheeted witnesses, 31 witnesses have been examined as on date and the case is now posted to 21/22.12.2020.

Considering the submissions made by learned counsel for the petitioner and after hearing learned counsel for the State, the prayer of the petitioner is allowed. Learned trial court is directed to recall the said P.W.7 fixing a suitable date and the petitioner be permitted to cross-examine the said P.W.7 on the date fixed, and failing to cross-examine the said witness on the date so

fixed by trial court, he will not be given any more chance.

With the aforesaid observation, the CRLMC is disposed of.

Copy of this order be uploaded in the High Court's official website as per Court's Notice No.4587, dated 25.03.2020.

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B.P. Routray, J.