



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.842 of 2025

**Pupun @ Jhoti Prakash
Dalai & another**

.... Petitioners

Mr.Hemant
Kumar Tripathy,
Advocate

-versus-

State of Odisha & another

.... Opp. Parties

Mr.Bibekananda
Nayak, AGA

CORAM:

JUSTICE SIBO SANKAR MISHRA

**Order
No.**

**ORDER
25.03.2025**

01. **1.** The petitioners are assailing the order dated 15.04.2020 passed by the learned S.D.J.M., Athagarh in C.T. Case No.495 of 2019, whereby the cognizance of the offences punishable under Sections 341/342/294/323/367/368/328/506/379/34 of the IPC has been taken against the petitioners.
- 2.** Learned counsel for the petitioners, at the outset, has taken me to the order dated 22.11.2024 passed by the learned Additional Sessions Judge, Athagarh



in S.T. Case No.123 of 2022 and submits that all the witnesses examined by the prosecution have not supported the prosecution and thereafter, the statements of the accused persons under Section 313 of the Cr. P.C. have also been recorded. At that stage, the learned Public Prosecutor moved application for examining the charge sheeted witness Nos.3, 4, 5 and 11. The copy of the application was served on the petitioners-accused persons.

3. Learned counsel for the accused persons received the copy of the application with objection. The learned trial Court allowed the application of the prosecutor on the same day by passing a cryptic order only stating that the prayer made by the prosecutor is allowed.

4. Learned counsel for the petitioners submits that the petitioners were entitled to be heard in the application, as it caused prejudice to them and would change the entire case of the prosecution. The submissions made by the learned counsel for the petitioners seems to be meritorious and the order dated 22.11.2024 passed by the learned Additional Sessions Judge, Athagarh without affording the petitioners-accused persons opportunity is not sustainable.

5. Hence, I set aside the order dated 22.11.2024 passed by the learned Additional Sessions Judge, Athagarh in S.T. Case No.123 of 2022 and direct the



learned trial Court to deal with the application of the prosecutor moved with the prayer to examine the charge sheeted witness Nos.3, 4, 5 and 11 afresh, if not yet examined, by giving opportunity of hearing to the petitioners-accused persons.

6. With the aforementioned observation, the CRLMC is disposed of.

(S.S. Mishra)
Judge

Subhasis

Signature Not Verified

Digitally Signed
Signed by: SUBHASIS MOHANTY
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 27-Mar-2025 10:55:53

