



IN THE HIGH COURT OF ORISSA AT CUTTACK

A.F.R.

CRLMC No. 408 of 2026

(In the matter of an application under Section 482 of Criminal Procedure Code, 1973).

Purna Chandra Nayak & Ors. *Petitioner(s)*
-versus-

State of Odisha *Opposite Party (s)*

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Debasis Sarangi, Adv.*

For Opposite Party (s) : *Ms. Gayatri Patra, ASC.*

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-23.02.2026

DATE OF JUDGMENT:-17.04.2026

Dr. Sanjeeb K Panigrahi, J.

1. The Petitioner has filed the present Criminal Miscellaneous Case under Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, invoking the inherent jurisdiction of this Court. By way of the present proceeding, the Petitioner, inter alia, assails the correctness of the order dated 14.11.2025 passed by the learned Additional District and Sessions Judge, Kodala, Ganjam in Sessions Trial No.182 of 2020, and seeks its quashment in the interest of justice.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:



- (i) The Petitioners are presently facing trial before the learned Court, having been charged with offences punishable under Sections 147, 148, 341, 294, 323, 325, 326, 379, 302, 506 and 307 read with Section 149 of the Indian Penal Code. In the course of trial, the informant was examined as P.W.1 on 19.11.2024. Thereafter, the Petitioners filed an application under Section 311 of the Code of Criminal Procedure on 22.01.2025 seeking recall of the said witness for further examination. However, the said application was not taken up for consideration forthwith and, after an inordinate lapse of time, the same was came to be heard only on 14.11.2025, on this date the Learned Court was pleased to reject the said application. Being aggrieved by the order dated 14.11.2025 passed by the Learned Additional District & Sessions Judge, Kodala, Ganjam in Sessions Trial No.182 of 2020 which gave rise to the Petitioners to approach this Court.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

3. Learned counsel for the Petitioners Mr. Debasis Sarangi earnestly made the following submissions in support of his contentions:
- (i) At the time when P.W.1 was examined, the learned arguing counsel for the Petitioners was indisposed and not in a position to effectively conduct the examination. In order to avoid any inconvenience to the learned Court and to ensure that the proceedings were not delayed, the examination was carried out by his associate. Subsequently, upon recovery and



on a careful perusal of the materials on record, the learned arguing counsel found that certain material and relevant questions, having a direct bearing on the just adjudication of the case, had remained to be put to the witness. It was in these circumstances, and with a view to securing the ends of justice, that the Petitioners filed the application under Section 311 Cr.P.C. at the earliest i.e. on 22.01.2025. Such situations are neither extraordinary nor uncommon in the conduct of trials; however, the learned Court, without duly appreciating the aforesaid bona fide circumstances, declined to accord any due weight thereto. The application is in questionnaire form, and the questions have been specified, which have been reflected in the impugned order. The question cannot be said to be irrelevant to the facts in issue.

- (ii) The application preferred by the Petitioners cannot, by any stretch of imagination, be characterized as an afterthought, inasmuch as the same was filed with due promptitude on 22.01.2025. The considerable delay in its adjudication, culminating in its disposal only on 14.11.2025, is attributable to circumstances beyond the control of the Petitioners and not to any lapse on their part. In such a situation, the objection raised by the prosecution that the application was intended to fill up lacunae in the case is wholly misconceived and devoid of merit. The acceptance of such an untenable objection by the learned Court, without proper appreciation of the factual



matrix, renders the impugned order legally vulnerable and unsustainable.

- (iii) The reasoning assigned by the learned Court, to the effect that the questions sought to be put could be addressed to the Investigating Officer, is wholly untenable in law as well as on facts. The informant and the Investigating Officer operate in distinct spheres and stand on entirely different footings; they are neither interchangeable nor can one be treated as a substitute for the other. Information that is personal to the informant, and which has not been brought on record during his examination, cannot be elicited through the Investigating Officer, whose knowledge is necessarily confined to the scope of investigation and the materials collected therein. In such circumstances, the denial of an opportunity to recall the informant for eliciting such material particulars results in serious prejudice to the defence. Accordingly, the impugned order under Annexure-3 is liable to be set aside in the interest of justice.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY:

4. The Learned Counsel for the Opposite Party State Ms. Gayatri Patra, Additional Standing Counsel earnestly made the following submissions in support of his contentions:
- (i) During the course of trial, the informant, Dandapani Nayak, was examined as P.W.1 on 19.11.2024. Thereafter, the Petitioners, upon due consideration, filed an application



under Section 311 of the Code of Criminal Procedure on 22.01.2025 seeking recall of the said witness for further examination, with a view to effectively bring on record certain material aspects necessary for a just adjudication of the case. On 14.11.2025, the learned trial Court rejected the Petitioner's application under Section 311 Cr.P.C. to recall the P.W.1 for further examination. Aggrieved by the same, the Petitioners have invoked the inherent power of this Court under Section 482 of the Code of Criminal Procedure, challenging the order dated 14.11.2025, passed by the learned Additional District and Sessions Judge, Kodala, Ganjam, in Sessions Trial No. 182 of 2020.

- (ii) On 14.11.2025, the learned Additional District and Sessions Judge, Kodala, Ganjam was pleased to reject the Petitioners' application under Section 311 Cr.P.C., inter alia, observing that the present case did not constitute a fit one warranting the recall of P.W.1 for the purpose of further cross-examination on behalf of the defence.
- (iii) It is further submitted that Section 311 of the Code of Criminal Procedure embodies a dual character, being discretionary in its first limb, as denoted by the expression "*may*", and mandatory in its second limb, as evinced by the use of the word "*shall*". The provision confers wide and plenary powers upon the Court to summon, examine, recall, or re-examine any person at any stage of the proceedings; however, such



expansive authority is coupled with a corresponding duty of judicious exercise. While the first part vests a discretion in the Court to act in appropriate cases, the second part casts an imperative obligation upon it to summon and examine, or recall and re-examine, any such person if his evidence appears to be essential for the just decision of the case. Thus, where the Court arrives at a just satisfaction that further examination of a witness is necessary to arrive at a fair and just adjudication, the exercise of such power ceases to be discretionary and assumes a mandatory character. The power conferred under Section 311 of Cr.P.C. should be invoked only with the object of discovering relevant facts or obtaining proper proof of such facts for '*a just decision of the case*'. This power is to be exercised with great caution and circumspection; and shall not be exercised if the court is of the view that the application has been filed to abuse the process of law or for prolonging the trial.

- (iv) The learned Trial Court, while passing the order dated 14.11.2025, has recorded a finding that the questions sought to be put to P.W.1 are merely peripheral and do not meet the threshold of "essentiality" as contemplated under Section 311 Cr.P.C. for arriving at a just and fair decision of the case. In essence, the learned Court has opined that the proposed line of further cross-examination neither bears a direct nexus with the core issues in controversy nor is indispensable for the



proper adjudication of the matter, thereby declining to invoke the jurisdiction under the said provision. The questions proposed to be put to P.W.1 upon recall relate to: (i) the exact manner in which the FIR came to be lodged; (ii) whether the Informant informed police prior to registration; and (iii) whether any station diary entry was made. These are collateral matters touching the procedural genesis of the FIR and are wholly insufficient to constitute 'essential evidence' warranting recall of P.W. 1 at an advanced stage of trial.

- (v) It is further submitted that on 19.11.2024, the informant, Dandapani Nayak, was duly cross-examined as P.W.1 in Sessions Trial Case No.182 of 2020. It is pertinent to note that, during the course of such cross-examination, as many as 26 questions were put to P.W.1 on behalf of the accused-Petitioners, thereby affording a substantial and effective opportunity to test the veracity and credibility of the said witness. The Prosecution has already examined six witnesses, the counsel for the 'Accused-Petitioner' filed Section 311 Cr.P.C. petition on 22.01.2025 seeking the recall of P.W.1 for further cross examination.
- (vi) It is further submitted that a mere change of counsel or an alleged inadequacy in the earlier cross-examination does not, ipso facto, constitute a valid ground for recall of a witness under Section 311 of the Code of Criminal Procedure. The jurisdiction under the said provision is not intended to enable



a party to rectify perceived lapses or omissions on the part of the conducting counsel. Consequently, any alleged deficiency attributable to the previous counsel cannot, by itself, furnish a justifiable basis for invoking the powers. Accordingly, there is no merit in the present Criminal Misc. Case filed by the Petitioners and the same does not warrant the exercise of jurisdiction of this Court under Section 482 Cr.P.C. as the Trial Court has already exercised a judicial discretion in a reasoned manner.

- (vii) Learned counsel for the State relied on the decision in the case of *Rajaram Prasad Yadav and State of Bihar and Anr.*¹ by the Apex Court, wherein it has been held that recall and re-examination of witness under Section 311 Cr.P.C. can be exercised at any stage; but paramount consideration should always be of just decision of the case. Further, in the case of *Neha Begum and Ors. vs. State of Assam & Anr.*² the Apex Court has authoritatively held that Section 311 of the Criminal Procedure Code gives discretionary power to the court to summon any person as a witness or to recall or re-examine the person already examined, but such a course of action is only permissible if the court is satisfied that the prayer to recall and re-examine the witness is not made to fill in the lacuna and that the non-summoning of the witnesses would cause serious prejudice to the accused.

¹ 2013 14 SCC 461

² 2024 SC 746



IV. COURT'S REASONING AND ANALYSIS:

5. This Court has heard the Leaned Counsel for the parties and perused the documents including the impugned order dated 14.11.2025 presented before this court.
6. At the outset, it is apposite to examine the scope and ambit of Section 311 of the Code of Criminal Procedure. The said provision, as is well settled, confers wide and plenary powers upon the Court to summon, examine, recall, or re-examine any person at any stage of the proceedings. The provision is couched in two parts, while the first part is discretionary, the second part is mandatory, obligating the Court to exercise such power where the evidence appears to be essential for the just decision of the case.
7. The provision underscores a vital jurisprudential truth that is the goal of a trial is not merely to conclude proceedings, but to arrive at the truth in a fair and just manner. Where procedural lapses threaten this objective, Section 311 steps in as a corrective mechanism. However, its efficacy ultimately depends upon judicious application. Courts must remain vigilant to ensure that the provision is invoked not as a tool of convenience, but as an instrument of justice.
8. A plain reading of Section 311 reveals its dual character. The first part of the provision, indicated by the expression "may", vests a discretionary power in the Court to summon or recall witnesses, while the second part, introduced by the word "shall", imposes a



mandatory obligation upon the Court to do so where the evidence of such person appears to be essential to the just decision of the case. This distinction is not merely linguistic but jurisprudentially significant, as it transforms judicial discretion into a binding duty once the Court arrives at a satisfaction regarding the indispensability of the evidence. Thus, the provision operates in a manner whereby judicial discretion yields to judicial obligation in the presence of necessity.

9. The jurisprudential foundation of Section 311 is rooted in the doctrine of fair trial and the overarching objective of arriving at the truth. The right to a fair trial, is firmly entrenched under Article 21 of the Constitution of India which obligates the Court to ensure that all relevant and material evidence is brought on record before a conclusion is reached. Section 311, in this context, acts as a safeguard against miscarriage of justice by enabling the Court to rectify omissions that may otherwise lead to an erroneous adjudication. It reflects the principle that procedural law is a handmaid of justice and must be applied in a manner that advances, rather than obstructs, the cause of justice.
10. The Supreme Court, in a catena of decisions, has expounded the scope and ambit of Section 311 Cr.P.C. In *Mohanlal Shamji Soni v. Union of India*³, held that the provision is couched in the widest possible terms and that the determinative factor for its exercise is

³ 1991SUPP (1) SCC271



whether the evidence sought to be adduced is essential for a just decision. The extracts of the above decision are as follows:

"Section 540 was found in Chapter XLVI of the old Code of 1898 under the heading 'Miscellaneous'. But the present corresponding Section 311 of the new Code is found among other Sections in Chapter XXIV under the heading 'General Provisions as to Enquiries and Trials'. Section 311 is an almost verbatim reproduction of Section 540 of the old Code except for the insertion of the words 'to be' before the word "essential" occurring in the old Section. This section is manifestly in two parts. Whereas the word 'used' in the first part is 'may' the word used in the second part is 'shall'. In consequence, the first part which is permissive gives purely discretionary authority to the Criminal Code and enables it at any stage of enquiry, trial or other proceedings' under the Code to act in one of the three ways, namely, (1) to summon any person as a witness or (2) to examine any person in attendance, though not summoned as a witness, or (3) to recall and re-examine any person already examined.

8. The second part which is mandatory imposes an obligation on the Court-(1) to summon and examine, or (2) to recall and re-examine any such person if his evidence appears to be essential to the just decision of the case.

9. The very usage of the words such as 'any court', 'at any stage', or 'of any enquiry, trial or other proceedings', 'any person' and 'any such person' clearly spells out that this section is expressed in the widest possible terms and do not limit the discretion of the Court in any way. However, the very width requires a corresponding caution that the discretionary power should be invoked as the exigencies of justice require and exercised judicially with circumspection and consistently with the provisions of the Code. The second part of the Section does not allow for



any discretion but it binds and compels the Court to take any of the aforementioned two steps if the fresh evidence to be obtained is essential to the just decision of the case.

10. It is a cardinal rule in the law of evidence that the best available evidence should be brought before the Court to prove a fact or the points in issue. But it is left either for the prosecution or for the defence to establish its respective case by adducing the best available evidence and the Court is not empowered under the provisions of the Code to compel either the prosecution or the defence to examine any particular witness or witnesses on their sides. Nonetheless if either of the parties with-holds any evidence which could be produced and which, if produced, be unfavourable to the party withholding such evidence, the court can draw a presumption under illustration (g) to Section 114 of the Evidence Act. In such a situation a question that arises for consideration is whether the presiding officer of a Court should simply sit as a mere umpire at a contest between two parties and declare at the end of the combat who has won and who has lost or is there not any legal duty of his own, independent of the parties, to take an active role in the proceedings in finding the truth and administering justice? It is a well accepted and settled principle that a Court must discharge its statutory functions-whether discretionary or obligatory-according to law in dispensing justice because it is the duty of a Court not only to do justice but also to ensure that justice is being done. In order to enable the Court to find out the truth and render a just decision, the salutary provisions of Section 540 of the Code (Section 311 of the New Code) are enacted whereunder any Court by exercising its discretionary authority at any stage of enquiry, trial or other proceeding can summon any person as a witness or examine any person in attendance though not summoned as a witness or recall or re-examine any person in attendance though not summoned as a witness or recall and re-examine any person already



examined who are expected to be able to throw light upon the matter in dispute; because if judgments happen to be rendered on inchoate,, inconclusive and speculative presentation of facts, the ends of justice would be defeated."

11. This principle was further elaborated in ***Rajaram Prasad Yadav v. State of Bihar***⁴, wherein the Court laid down guiding parameters for the exercise of power under Section 311, emphasizing that such power must be invoked to subserve the cause of justice and not to fill up lacunae in the prosecution or defence case. The following paragraph has echoed the aforesaid philosophy:

"14.A conspicuous reading of Section 311 Cr.P.C. would show that widest of the powers have been invested with the Courts when it comes to the question of summoning a witness or to recall or re-examine any witness already examined. A reading of the provision shows that the expression "any" has been used as a pre-fix to "court", "inquiry", "trial", "other proceeding", "person as a witness", "person in attendance though not summoned as a witness", and "person already examined". By using the said expression "any" as a pre-fix to the various expressions mentioned above, it is ultimately stated that all that was required to be satisfied by the Court was only in relation to such evidence that appears to the Court to be essential for the just decision of the case. Section 138 of the Evidence Act, prescribed the order of examination of a witness in the Court. Order of re-examination is also prescribed calling for such a witness so desired for such re-examination. Therefore, a reading of Section 311 Cr.P.C. and Section 138 Evidence Act, insofar as it comes to the question of a criminal trial, the order of re-

⁴ 2013 (14) SCC 461



examination at the desire of any person under Section 138, will have to necessarily be in consonance with the prescription contained in Section 311 Cr.P.C. It is, therefore, imperative that the invocation of Section 311 Cr.P.C. and its application in a particular case can be ordered by the Court, only by bearing in mind the object and purport of the said provision, namely, for achieving a just decision of the case as noted by us earlier. The power vested under the said provision is made available to any Court at any stage in any inquiry or trial or other proceeding initiated under the Code for the purpose of summoning any person as a witness or for examining any person in attendance, even though not summoned as witness or to recall or re-examine any person already examined. Insofar as recalling and re-examination of any person already examined, the Court must necessarily consider and ensure that such recall and re-examination of any person, appears in the view of the Court to be essential for the just decision of the case. Therefore, the paramount requirement is just decision and for that purpose the essentiality of a person to be recalled and re-examined has to be ascertained. To put it differently, while such a widest power is invested with the Court, it is needless to state that exercise of such power should be made judicially and also with extreme care and caution.

15. In this context, we also wish to make a reference to certain decisions rendered by this Court on the interpretation of Section 311 Cr.P.C. where, this Court highlighted as to the basic principles which are to be borne in mind, while dealing with an application under Section 311 Cr.P.C. In the decision reported in Jamatraj Kewalji Govani vs. State of Maharashtra - AIR 1968 SC 178, this Court held as under in paragraph 14:-

"14. It would appear that in our criminal jurisdiction, statutory law confers a power in absolute terms to be exercised at any stage of the trial to summon a witness or examine one present in court or to recall a witness already



examined, and makes this the duty and obligation of the Court provided the just decision of the case demands it. In other words, where the court exercises the power under the second part, the inquiry cannot be whether the accused has brought anything suddenly or unexpectedly but whether the court is right in thinking that the new evidence is needed by it for a just decision of the case. If the court has acted without the requirements of a just decision, the action is open to criticism but if the court's action is supportable as being in aid of a just decision the action cannot be regarded as exceeding the jurisdiction."
(Emphasis added)

12. Similarly, in *Natasha Singh v. CBI*⁵ it was observed that the provision should be applied liberally where the interest of justice so demands, even if it results in some delay, provided that the exercise is bona fide. the following paragraph clarifies the heart and soul of the Section of 311 which are extracted herein below:

"5. In this context, we also wish to make a reference to certain decisions rendered by this Court on the interpretation of Section 311 Cr.P.C. where, this Court highlighted as to the basic principles which are to be borne in mind, while dealing with an application under Section 311 Cr.P.C. In the decision reported in Jamatraj Kewalji Govani vs. State of Maharashtra - AIR 1968 SC 178, this Court held as under in paragraph 14:-

"14. It would appear that in our criminal jurisdiction, statutory law confers a power in absolute terms to be exercised at any stage of the trial to summon a witness or examine one present in court or to recall a witness already examined, and makes this the duty and obligation of the Court provided the just decision of the case demands it. In other words, where the court exercises the power under

⁵ 2013 (5) SCC 741



the second part, the inquiry cannot be whether the accused has brought anything suddenly or unexpectedly but whether the court is right in thinking that the new evidence is needed by it for a just decision of the case. If the court has acted without the requirements of a just decision, the action is open to criticism but if the court's action is supportable as being in aid of a just decision the action cannot be regarded as exceeding the jurisdiction." (Emphasis added)

16. In the decision reported in *Mohanlal Shamji Soni vs. Union of India and another* - 1991 Suppl.(1) SCC 271, this Court again highlighted the importance of the power to be exercised under Section 311 Cr.P.C. as under in paragraph 10:-

"10....In order to enable the court to find out the truth and render a just decision, the salutary provisions of Section 540 of the Code (Section 311 of the new Code) are enacted whereunder any court by exercising its discretionary authority at any stage of enquiry, trial or other proceeding can summon any person as a witness or examine any person in attendance though not summoned as a witness or recall or re-examine any person in attendance though not summoned as a witness or recall and re-examine any person already examined who are expected to be able to throw light upon the matter in dispute; because if judgments happen to be rendered on inchoate, inconclusive and speculative presentation of facts, the ends of justice would be defeated."

17. In the decision in *Raj Deo Sharma (II) vs. State of Bihar* - 1999 (7) SCC 604, the proposition has been reiterated as under in paragraph 9:-

"9. We may observe that the power of the court as envisaged in Section 311 of the Code of Criminal Procedure has not been curtailed by this Court. Neither in the decision of the five-Judge Bench in A.R. Antulay case nor in Kartar Singh case such power has been restricted for achieving speedy trial. In other words, even if the



prosecution evidence is closed in compliance with the directions contained in the main judgment it is still open to the prosecution to invoke the powers of the court under Section 311 of the Code. We make it clear that if evidence of any witness appears to the court to be essential to the just decision of the case it is the duty of the court to summon and examine or recall and re-examine any such person.” (Emphasis added)

13. At the heart of Section 311 lies the “essentiality test”, which serves as the touchstone for determining whether a witness should be summoned or recalled. The Court must assess whether the evidence sought to be brought on record is indispensable for arriving at a just and fair decision. This test is inherently qualitative and requires the Court to evaluate the relevance, materiality, and probative value of the proposed evidence. It is not the quantity of questions or the stage of the trial that is determinative, but the significance of the evidence in resolving the core issues in controversy. Where the absence of such evidence is likely to result in miscarriage of justice, the Court is under a mandatory duty to exercise its power under the second limb of Section 311.
14. At the same time, judicial pronouncements have consistently cautioned against the misuse of Section 311 as a tool to fill up lacunae or to protract proceedings. The distinction between “lacuna” and “oversight” assumes critical importance in this context. While a lacuna denotes an inherent weakness in a party’s case which cannot be permitted to be cured, an oversight refers to an inadvertent omission which may be rectified in the interest of justice. The Courts have thus maintained a delicate balance between



preventing abuse of process and ensuring that justice is not sacrificed due to technical deficiencies.

15. The question of recall of witnesses on account of change of counsel or alleged inadequacy of earlier cross-examination has also been the subject of judicial scrutiny. In many land mark decisions, the Hon'ble Supreme Court held that recall of witnesses merely on the ground of change of counsel should not be permitted, as it may lead to serious prejudice and abuse of the process of law. However, the Court has also recognized that in exceptional cases, where it is demonstrated that certain crucial aspects affecting the merits of the case were not brought on record, recall may be permitted to prevent miscarriage of justice. Thus, the exercise of power under Section 311 is ultimately guided by the facts and circumstances of each case.
16. The amplitude of Section 311 is further evident from the use of expressions such as "any Court", "at any stage", and "any person", which collectively indicate that the provision is intended to operate without temporal or procedural constraints. It enables the Court to intervene at any point of the proceedings, whether at the stage of inquiry, trial, or even after the closure of evidence, if the exigencies of justice so require. Such wide amplitude, however, necessitates a corresponding degree of judicial caution, as indiscriminate exercise of power may undermine the principles of finality and procedural discipline.
17. In the contemporary legal landscape, the essence of Section 311 has been substantially retained in Section 528 of the Bharatiya Nagarik



Suraksha Sanhita, 2023, thereby reaffirming the continued relevance of this provision. It reflects the legislative intent to preserve the Court's authority to ensure that justice prevails over procedural technicalities. In fact, Section 311 Cr.P.C. represents a vital instrument in the hands of the Court to secure the ends of justice. It embodies the principle that the administration of criminal justice is not a mere contest between the prosecution and the defence, but a solemn quest for truth. While the provision grants wide discretionary powers, its true import lies in its mandatory mandate to act where the evidence is essential for a just decision. The efficacy of Section 311, therefore, depends not merely on its textual breadth but on its judicious and principled application, guided by the overarching objective of ensuring fairness, equity, and justice in every case.

18. The principal ground taken by the Petitioners is that at the relevant time, the arguing counsel was indisposed and the cross-examination was conducted by his associate, resulting in omission to put certain material questions. However, this Court is unable to accept the said contention as a sufficient ground for recall of the witness. It is trite law that a mere change of counsel or perceived inadequacy in the earlier cross-examination cannot, by itself, constitute a valid ground for invoking the jurisdiction under Section 311 Cr.P.C.
19. This Court further finds that the learned Trial Court has examined the nature of the questions sought to be put to P.W.1 and has



arrived at a categorical finding that the same are peripheral in nature and do not satisfy the test of “essentiality”. The questions, as noted in the impugned order, pertain to the manner of lodging of the FIR, prior intimation to police, and station diary entries. Such aspects, though not entirely irrelevant, cannot be said to be so crucial or indispensable as to warrant recall of the informant at this stage of the trial.

20. Moreover, the reasoning of the learned Trial Court is that such aspects can be elicited through the Investigating Officer cannot be said to be wholly untenable. The Investigating Officer is competent to depose regarding the procedural aspects of registration of the FIR and maintenance of station diary, and therefore, the denial of recall does not ipso facto result in failure of justice.
21. It is also pertinent to note that the power under Section 311 Cr.P.C. is to be exercised with caution and circumspection. The Court must guard against attempts to protract the trial or to reopen evidence on tenuous grounds. In the present case, this Court finds no perversity, illegality, or material irregularity in the exercise of discretion by the learned Trial Court.

V. CONCLUSION:

22. In view of the foregoing discussion, this Court is of the considered opinion that the Petitioners have failed to make out a case warranting interference with the impugned order dated 14.11.2025 passed by the learned Additional District and Sessions Judge, Kodala, Ganjam in Sessions Trial No.182 of 2020. The impugned



order does not suffer from any legal infirmity or jurisdictional error so as to invoke the inherent powers of this Court under Section 482 Cr.P.C. / Section 528 BNSS. The learned Trial Court has exercised its discretion judiciously and in accordance with settled principles of law.

23. Accordingly, the present Criminal Miscellaneous Case, being devoid of merit, stands dismissed. The impugned order dated 14.11.2025 is hereby affirmed.
24. Impugned order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 17th April, 2026/