



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P(C) No.5529 of 2026

Subhash Sao

....

Petitioner

Ms. Laxmi Sharma, Advocate

-versus-

Nirupama Sahu

....

Opp. Party

CORAM:

JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

26.02.2026

(Hybrid Mode)

Order No.

02.

1. Heard learned counsel for the petitioner extensively.

2. The writ application has been filed challenging the order dated 09.02.2026 passed by the learned Judge, Family Court, Bargarh in C.M.C. No.109 of 2019. By the said order petition dated 15.01.2026 filed by the opposite party in CMC No.109 of 2019 who is the petitioner in the present application asking for leave for re-examination-in-chief of himself as a witness on recall was rejected.

3. From perusal of the order passed by the learned Court it is apparent that the learned Court has given detail reasons in considering the application filed



U/s.311 for re-examination-in-chief on recall, which is reproduced herein.

“Heard learned counsel for both sides. Perused the petition dated 15.01.2026 filed by the O.P. for his re-examination-in-chief on recall u/S.311, Cr.P.C. It is seen the O.P. through his petition has submitted that inadvertently certain material particulars with regard to the adulterous conduct of the petitioner has not been included in his examination-in-chief and he is required to submit supplementary affidavit in re-examination-in-chief to include, clarify the adulterous conduct of the petitioner and made prayer for his recall.

Per contra ld. Counsel for the petitioner submitted that the petition filed by the O.P. for his re-examination-in-chief u/S.311, Cr.P.C. is not maintainable and the same is filed only to cause delay in disposal of the maintenance proceeding.

It is not disputed that O.P. has taken the adulterous conduct of the petitioner No.1 as a shield to deny her maintenance. He is found to have asserted vividly the adulterous conduct of the petitioner on his affidavit evidence-in-chief. At a belated stage he has made prayer for his re-examination-in-chief to fill-up the lacuna brought out from his mouth during the lengthy cross-examination which ought not be allowed. In the premises the prayer made by the O.P. for his re-examination-in-chief u/S.311, Cr.P.C. is rejected being devoid of merit.”

The portions as underlined above are considered by this Court for not interfering with the order.

4. On perusal of the examination-in-chief filed by the petitioner-husband particularly paragraphs-4, 5



and 6, the finding of the learned trial court that “*the opposite party is found to have asserted vividly the adulterous conduct of the petitioner on his affidavit-evidence-in-chief*” is correct. Therefore, in considered opinion of this Court the order dated 09.02.2026 is just and proper and needs no interference by this Court.

5. The petition stands disposed of.

It is clarified that no part of this order shall be treated in any manner to be reflection on merits and contentions of parties to the CMC No.109 of 2019 pending before the learned Judge, Family Court, Bargarh.

(Mruganka Sekhar Sahoo)
Judge

Radha