



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1027 of 2025

Harihar Pani & another

.... **Petitioners**
Mr.Abhinandan
Pradhan,
Advocate

-versus-

State of Odisha & another

.... **Opp. Parties**
Mr.S.J.Mohanty,
ASC

CORAM:

JUSTICE SIBO SANKAR MISHRA

Order
No.

ORDER
26.03.2025

01.

1. The petitioners are aggrieved by the order dated 18.02.2025 passed by the learned Additional Sessions Judge-cum-Special Court under POCSO Act, Sambalpur in Special G.R. Case No.50 of 2024, whereby the application of the petitioners under Section 348 of the BNSS (Section 311 of the Cr. P.C.) to recall P.W.2 has been rejected.

2. P.W.2, the child victim witness, who is 14 years old, has been examined by the prosecution on 07.02.2025. The child witness has suffered an extensive cross-examination and faced about 30



questions. The petitioners moved an application for recalling the said witness to put the following questionnaires:

“1. On which date you had been to Sambalpur for identification ?

2. Did you receive any notice to proceed for identification ? If yes can you produce the notice ? If no who intimated you about the same and when?

3. With whom you went for identification ?

4. Did the Police accompany you ?

5. Were you told the place of identification ?

6. Suggestion – You had been shown the photographs of persons to be identified by the Police and had been instructed to identify such persons only ?

7. How many persons were standing with the identified accused during identification ?

8. They were on different heights and different complexions ?

9. How many times T.I. was done ?

10. Did you mention any special role of the identified accused ?



11. Was there any special feature of the accused ? What was it ?

12. Commission/omission if 1st ICG.”

3. Learned counsel for the petitioners extensively argued the matter and taken me to the charge sheet as well as the provisions of law operating the field.

4. However, I am not inclined to entertain the present petition only because under Section 33(5) of the POCSO Act there is a bar to recall child/victim witness repeatedly, the said statutory bar is operating in the facts scenario of the present case. In the present case, on the face of the record its apparent that the child victim has suffered an extensive cross-examination.

5. In that view of the matter, I am not inclined to entertain the present petition. However, dismissal of the petition shall not preclude the petitioners to pose the questionnaires as mentioned above, which were framed for the purpose of putting to the child witness to any other witnesses including the parents or to the I.O.

6. Learned counsel for the State submits that 43 witnesses have been cited by the prosecution in the charge sheet. The victim is also examined as P.W.2. The other witnesses are yet to be examined. Therefore,



the petitioners are at liberty to pose the questionnaires as framed and reproduced above to the other witnesses.

7. The CRLMC is accordingly dismissed.

(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 18:30:46

