



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1105 of 2025

**Srabani Barik @ Sarbani
Barik**

.... **Petitioner**
Mr.Anjan
Kumar Biswal,
Advocate

-versus-

State of Odisha & another

.... **Opp. Parties**
Mr.Satyabrata
Panda, ASC

CORAM:

JUSTICE SIBO SANKAR MISHRA

Order
No.

ORDER
27.03.2025

01.

1. The petitioner is aggrieved by the order dated 12.02.2025 passed by the learned J.M.F.C., Baripada in 1CC Case No.83 of 2019, whereby her application under Section 311 of the Cr. P.C. for recalling C.W.1- the complainant has been turned down on the ground that in the application under Section 311 of the Cr. P.C., the petitioner has not enumerated the questionnaires sought to be put to the witness namely the complainant.



2. Mr. Anjan Kumar Biswal, learned counsel for the petitioner submits that the petitioner needs only one opportunity to cross-examine the witness and he undertakes to furnish the questionnaires before the trial Court before the date to be fixed by the Court below.

3. Since the petitioner is facing the trial for the offence punishable under Section 138 of the N.I. Act, the presumption under Section 139 of the N.I. Act operates against him, which is a rebuttable presumption. The onus lies on the petitioner to discharge the burden to rebut the presumption drawn against him. Therefore, he seeks to re-examine C.W.1-the complainant.

4. Regard being had to the facts of the present case, I am inclined to allow the prayer made by the petitioner seeking recalling of the witness namely C.W.1-the complainant.

5. Accordingly, the trial Court is directed to fix a particular date and afford a singular opportunity to the petitioner to cross-examine C.W.1-the complainant. Before the date to be fixed by the trial Court, the petitioner shall furnish the questionnaires to be put to the witness sought to be re-examined. The learned trial Court shall examine the relevancy of the questionnaires and summon the witness by fixing a



particular date. The petitioner is also liable to pay cost of Rs.10,000/- (Rupees ten thousand) to the witness on the date he appears before the trial Court for deposition.

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 18:46:10

