



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 465 of 2026

Mohammad Sanu @ **Petitioner**
Md. Sanu

Mr. S. Dwibedi, Advocate

-versus-

Victim/Informant **Opposite Party**

Mr. S. Panigrahi, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
17.07.2026

Order No.

01. 1. Heard.

2. The present application has been filed assailing the order of cognizance dated 17.04.2026 passed by the learned J.M.F.C., Bissamcuttack, Rayagda in ICC Case No.01 of 2026 inter alia on the ground of infraction of the proviso to Section 223(1) of the BNSS.

For convenience of reference, said Section 223(1) of BNSS along with the proviso is extracted hereunder:-

" 223. Examination of complainant-

(1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be



signed by the complainant and the witnesses, and also by the Magistrate:

Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard:

Provided further that when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses-

(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint: or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 212:

Provided also that if the Magistrate makes over the case to another Magistrate under section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them."

3. The learned counsel for the Petitioner also relies on the judgment of the Apex Court in the case of ***Parveender Singh vs. Directorate of Enforcement*** reported in **2026 SCC online SC 903**.

4. On going through the recitals of the petition, the order passed and the submissions made, issue notice to the Opposite Party and a copy of the brief be also served on the learned counsel for the State.

5. Issue notice to the Opposite Party-complainant at the address to be furnished by the Petitioner by way



of a memo, which is to be filed in the Registry by Speed Post. Requisites shall be filed by 22.07.2026.

6. List this matter on 19.08.2026.

(V. Narasingh)
Judge

I.A. No.738 of 2026

Order No.

02. 1. Issue notice as above.
2. Accept one set of process fee.
3. It is directed that there shall be stay of further proceeding in ICC No.1 of 2026 on the file of learned J.M.F.C., Bissamcuttack till the next date.
4. List this matter on the date fixed (19.08.2026).

(V. Narasingh)
Judge

Sipra