



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.3128 of 2025

Jyotsnarani Acharya

.....

Petitioner

Represented By Adv. -
Suvashish Pattanaik

-versus-

1) State Of Odisha

.....

Opp. Parties

2) Abhijit Das

Represented By Adv. -
U.C. Jena, A.S.C.

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
19.08.2025

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner. Perused the application as well as the prayer made therein.
3. By filing the present application under Section 528 of B.N.S.S. the Petitioner seeks to invoke the inherent jurisdiction of this Court to quash the order dated 14.07.2025 at Annexure-2 passed by the learned J.M.F.C.-(V), Bhubaneswar in 1.C.C. No.1234 of 2023. By virtue of the impugned order dated 14.07.2025, the learned J.M.F.C.-(V), Bhubaneswar has rejected the prayer of the Petitioner to recall P.W. 1 under Section 311 of the Cr.P.C. Being aggrieved by such order, the Petitioner has approached this court by filing the present application.
4. Learned counsel for the Petitioner at the outset contended



that at the time of argument in the abovenoted 1.C.C. case, the Petitioner filed an application under Section 311 of the Cr.P.C. with a prayer to recall the PW 1 for his further cross-examination. He further submitted that the conducting counsel for the accused-petitioner inadvertently forgot to ask certain important questions which will have a material bearing on the outcome of the trial. However, such application has been mechanically rejected on the ground that the same has been filed to cover up a procedural latches, no other reason has been assigned in the impugned order.

5. In course of his argument, learned counsel for the Petitioner referred to the provision contained in Section 311 of the Cr.P.C. he further contended that in view of such provision, witness can be recalled for examination/ re-examination/ cross-examination at any stage of trial/ proceeding. However, there is only one bar to such recall, i.e. such recall is required for a just decision in the case. In such view of the matter, learned counsel for the Petitioner contended that the learned trial court has committed an illegality by rejecting the application by passing a cryptic order without assigning any reason.

6. On a perusal of the impugned order dated 14.07.2025, this Court observes that the prayer of the Petitioner to recall the PW 1 has been rejected by the learned trial court. The Petition under Section 311 of the Cr.P.C., which has been filed along with the application at Annexure-1, reveals that although a prayer was made to recall the PW 1, however, no sufficient reason has been given. It also appears that the questions that are likely to be put to the PW 1 have also not convinced the learned trial court. In such view of the matter, this Court is of the view that the learned trial



court has not committed any illegality in rejecting the application of the Petitioner. However, considering the of the provision in the shape of Section 311 of the Cr.P.C. and keeping in view the concept of fair trial, this Court grants another opportunity to the Petitioner to move a fresh application taking therein all the grounds, along with the questions to be asked to the recall-witness before the learned trial court within two weeks from today. In such eventuality, the learned trial court shall consider the same by providing opportunity to both sides and dispose of the application strictly in terms of the principles contained in Section 311 of the Cr.P.C.

7. With the aforesaid observations/ directions, the CRLMC stands disposed of.

Issue urgent certified copy of this order as per Rules.

(Aditya Kumar Mohapatra)
Judge

Anil

Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR SAHOO
Designation: Junior Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 20-Aug-2025 14:14:32

