



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.5158 of 2025

Satyajit Samal

.....

Petitioner

Represented by Adv. -
Ramdas Achary

-versus-

1) State Of Odisha

.....

Opposite Parties

2) Informant
victim

Represented by Adv. -
Ms. B.Sahu, A.G.A.

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

ORDER
15.12.2025

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned counsel for the State. Perused the application as well the prayer made therein.
3. By filing the present application the petitioner seeks to invoke the inherent power of this Court under Section 528 of the B.N.S.S with a prayer to quash the impugned order dated 25.10.2025 passed by the learned Adhoc Additional District and Sessions Judge-cum-FTSC-II, Bhubaneswar, Khordha, thereby rejecting the application of the Petitioner under Section 311 Cr.P.C. to recall informant-P.W-1 for further cross-examination.
4. Learned counsel for the Petitioner at the outset contended that the P.W-1-Informant is a material witness and the fate of the trial depends on the evidence of the Informant-P.W-1. He further



contended that the allegation in the trial is to be decided principally basing upon the evidence of the P.W-1-Informant. Thus, in such background the evidence of the P.W-1 assumes a lot of importance. He further contended that although the P.W-1-Informant has been examined and cross-examined in the meantime, however certain relevant portions which are crucial for the trial could not be asked to her during her cross-examination. He further submitted that the P.W-1 was examined and discharged in July, 2025. Thereafter, the application to recall was filed immediately on 10.10.2025 along with the application a questionnaire has also been attached. The learned trial court vide order dated 25.10.2025 at Annexure-5, after considering the prayer of the Petitioner and after recording the fact that the P.W-1 was examined in chief on 15.02.2025 and 21.02.2025 and thereafter cross-examined by the defence on 22.05.2025 has rejected the recall application. On an earlier application under Section 311 Cr.P.C., the P.W-1 was recalled for further cross-examination on 23.05.2025. A petition under Section 311 Cr.P.C was filed on behalf of the accused to recall P.W-1 for her further cross-examination on 23.05.2025. On 23.05.2025, learned counsel for the accused filed a memo to the effect that the accused does not want to proceed with the said petition which was withdrawn by filing a memo on 23.05.2025 by the accused. Again on 26.06.2025, another application was filed under Section 311 Cr.P.C. to recall P.W-1. Such petition was allowed vide order dated 19.07.2025 and thereafter, on 23.07.2025, the P.W-1 was further cross-examined by the defence. Thereafter, she was discharged.

5. While this was the position, again on 10.10.2025, the



present application under Section 311 Cr.P.C. at Anenxure-4 was filed before the learned trial court to recall the P.W-1 for further cross-examination. Learned trial court has made an observation that the accused is making an attempt to linger the trial and to harass the victim-informant-P.W-1 by filing the petition under Section 311 Cr.P.C. Moreover, it has also been observed that the application under Section 311 Cr.P.C. does not reveal any reason as to why the defence failed to put such questions on an earlier occasion and that the questions which are sought to be put to the witness (P.W-1) in her further cross-examination would demolish the effect of for entire examination-in-chief. As such, the prayer for further cross-examination of P.W-1 has been refused by the learned trial court. Being aggrieved by such order the Petitioner has approached this Court by filing the present application.

6. Learned counsel for the State on the other hand submitted that the learned trial court has not committed any illegality in passing order dated 25.10.2025. She further submitted that after examining the conduct of the accused-Petitioner, the learned trial court has rightly rejected the application of the Petitioner filed under Section 311 Cr.P.C. vide order dated 25.10.202. She further objected to the cross-examination of the P.W-1 in respect of question Nos.2 and 3 of the questionnaire at Annexure-4 to the application. On such ground, learned counsel for the State contended that the present application is devoid of merit and accordingly, the same should be dismissed.

7. Having regard to the submissions made by the learned counsels appearing for the respective parties, on a careful examination of the factual background of the present case, further taking note of the application filed by the accused-Petitioner under



Section 311 Cr.P.C. at Annexure-4 and on a careful examination of the questionnaire attached to such application, this Court is of the view that the question Nos.2 and 3 are not permissible to be put to the P.W-1 by recalling for her further cross-examination. However, with regard to question No.1, this Court found that there is some substance in such question. Although this Court is of the view that such questions could have put to the P.W-1 at the first instance during her initial cross-examination by the defence, keeping in view the spirit of Section 311 Cr.P.C. i.e. to permit the parties to lead evidence by recalling the witnesses at any stage of the proceeding if such evidence is found to be essential for just decision of this case, this Court is inclined to permit the P.W.-1 to be recalled only for her cross-examination in respect of the question No.1. Accordingly, the impugned order dated 25.10.2025 is modified to the aforesaid extent. However, the petitioner shall pay a cost of Rs.2000/- to the P.W-1. It is further made clear that the P.W-1 shall be recalled for further cross-examination on a particular date and she shall be cross examined and discharged on the same date.

8. With the aforesaid observations and directions, the CRLMC application stands disposed of.

(Aditya Kumar Mohapatra)
Judge

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