

19.05.2026  
SL. 16  
Court No. 5  
Suvayan

**In the High Court at Calcutta  
Circuit Bench at Jalpaiguri  
Criminal Revisional Jurisdiction**

**C.R.R. 176 of 2026**

In Re: - An application under Section 482 of the Cr.P.C. or under Section 528 of BNSS, 2023.

And

In the matter of: **Uttam Sharma @ Uttam Kumar Sharma & Anr.**

....petitioners.

Ms. Chanda Jha

...for the petitioners.

Mr. Nilay Chakraborty, Ld. APP-in-Charge

...for the State.

1. The petitioners have filed the present revisional application challenging the order passed by the learned Special Judge (POCSO Act), 1<sup>st</sup> Court, Siliguri by Order No. 81 dated February 13, 2026 in Special POCSO Case no. 17(3) of 2019.
2. The petitioners have filed an application under Section 311 of Cr.P.C. corresponding to Section 348 of BNSS, 2023 for recalling of the victim for further cross-examination. It transpires from the impugned order that the victim was examined on June 2, 2022. Subsequently, the cross-examination of the victim was completed on April 3, 2023. Thereafter, several witnesses have been examined. Now after the laps of more than one year, the petitioners have filed the present application for recalling of PW 1 to put the following questions:

*“a. Whether you have any love affair/relationship with the accused Uttam Sharma?”*

*b. Whether the accused Uttam Sharma kidnapped or abducted you anywhere?”*

*c. Whether the accused Uttam Sharma forcefully*

*took you to a hotel or anywhere and committed rape?*

*d. Whether the accused Uttam Sharma took any photograph of physical relationship with you?*

*e. It is also false that any marriage certificate is prepared by accuseds?*

*f. Other necessary questions will be asked at the time of taking evidence.”*

3. Learned Special Judge while considering the application filed by the petitioners for examination of victim on recall has held that the victim was cross-examined at length and by recalling the victim the petitioners are trying to fill up the lacuna.
4. From a careful reading of the provisions of Section 311 of Cr.P.C. it appears that the object of the provision is for achieving a just decision in the case can be exercised at any stage.
5. On careful reading of the provision of Section 33(5) of the POCSO Act, it reveals that it is more in nature of a safeguard than a bar. It provides that a child should not be called repeatedly to testify in the Court but does not prohibit her recall.
6. While considering an application to recall a victim where an accused is facing trial for commission of offence the POCSO Act apart from the mandate of Section 33(5) of the Act, the provisions of Section 311 of Cr.P.C. have also to be kept in mind. The Trial Court has to be very cautious while considering such application and in deserving cases can allow the application. It is important that the questions sought to

be asked to the victim should be indicated in the petition so that the Court can examine the questions and suggestions and allow only those which have not asked either to the witnesses or are irrelevant, as this will not be necessary for just decision of the case but may not frustrate the object of Section 311 Cr.P.C. by allowing a witness to resile from her evidence due to subsequent events or efflux of time.

7. Considering the above, this Court finds that the victim has already been examined and cross-examined on April 3, 2023 and thereafter several witnesses have been examined and the case is at the fag end and the petitioners intend to recall the victim only to put the above questions as in between the period after the cross-examination the petitioners might have win over the witness so that the witness resile from her earlier evidence.
8. This Court is of the view the said act of the petitioners cannot be allowed for recalling of the victim for cross-examination further.
9. In view of the above, this Court did not find any merit in the present revisional application.
10. Accordingly, CRR 176 of 2026 is dismissed.

**(Krishna Rao, J.)**

