IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV NO.01 of 2026
CNR NO. ODHC010000122026

(In the matter of application under Section 438 & 442 of BNSS).

Kamesh Chandra Parida @ Pintu @ Kamesh Parida … ***Petitioner***

-versus-

State of Odisha & Another … ***Opposite Parties***

For Petitioner : ***Mr. A. Ray, Advocate***

For Opposite Parties : ***Mr. S.K. Rout, Addl. PP***
Mr. B. Mohanty, Advocate (OP No.2)

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING:02.11.2026
DATE OF JUDGMENT:13.11.2026

G. Satapathy, J.

1. The petitioner by way of this revision application seeks to challenge the impugned order dated 09.06.2025 passed by the learned SDJM, Bhadrak in GR Case No.687 of 2024 taking cognizance of offences punishable U/Ss.294/304 of IPC.

2. The facts in nutshell is that the deceased Bijay Kumar Panda was having a grocery shop at Patharadi Chhak in his village and on 20.03.2024, the petitioner

purchased some grocery articles amounting to Rs.180/- from the shop of the deceased, but the petitioner paid only Rs.140/- through PhonePe and when the deceased demanded the further amount, the petitioner allegedly attacked the deceased as a result, the deceased fell down and was subsequently shifted to the hospital where he was declared as dead. Accordingly, an FIR being lodged by the nephew of the deceased came to be registered against the petitioner in Bhadrak Town PS Case No.157 of 2024 for commission of offence U/S.341/294/323/324/302 of IPC, but on conclusion of investigation, charge-sheet was placed against the petitioner for commission of offence punishable U/S.294/304-A of IPC, however, the learned SDJM took cognizance of the offences indicated *supra*. Accordingly, the petitioner being aggrieved with the impugned order has preferred this revision.

3. In the course of hearing, Mr. Anshuman Ray, learned counsel for the revision-petitioner submits that from the statement of material witnesses recorded

U/S.164 of Cr.PC together with the inquest report and the PM report of the deceased, no case U/S.304 is made out against the petitioner and thereby, the Investigating Officer submitted charge-sheet against the Petitioner for commission of offence punishable U/Ss.294/304-A of IPC, however, the learned SDJM has erroneously passed the impugned order taking cognizance of offence U/S.294/304 of IPC and thereby, the impugned order needs to be set aside. Accordingly, Mr. Ray, prays to allow the revision.

3.1. On the other hand, Mr. Biswajit Mohanty, learned counsel for OP No.2-cum-informant by placing the order passed by the Apex Court in Special Leave to Appeal (Crl.) No.3588 of 2026 submits that the informant has in fact approached the Apex Court for the infirmity in the charge-sheet filed against the petitioner for commission of offence punishable U/S.294/304-A of IPC, but this is a clear case of murder which is punishable U/S. 302 of IPC and the Apex Court on being moved has permitted the informant in the SLP to

raise such points before the learned Court in seisin over the matter to consider the said issue in accordance with law looking to the evidence available on record. Mr. Nayak, learned counsel accordingly submits that the learned Court in seisin over the matter on being moved has passed the impugned order taking cognizance of offence punishable U/S.294/304 of IPC, but it is a case of Sec.302 of IPC and, therefore, the revision may kindly be dismissed.

3.2. Mr. S.K. Rout, learned Addl. PP while supporting the impugned order prays to dismiss the criminal revision.

4. After having considered the rival submission and upon perusal of record, it appears that the petitioner seriously challenges the impugned order for taking cognizance of offence U/Ss.294/304 of IPC, but there appears allegation against the petitioner for attacking the deceased and giving fist blows to his left side chest resulting him in falling down on the road and subsequently, succumbing to death. The petitioner in

fact challenges the impugned order by placing reliance on the statement of witnesses recorded U/S.164 of Cr.PC, but the Court has to consider all the statements on record together with the documents collected by the Investigating Agency in the course of investigation. It is further claimed by the petitioner that there was no intention on the part of the petitioner to cause death of the deceased, but since the offences for which cognizance has been taken can only prima facie be considered for the knowledge of the offender, since the offence U/S. 304-II of IPC is associated with knowledge that is likely to cause death of a person.

5. Even otherwise, the impugned order was passed way back on 09.06.2025, but in the meantime, more than a year and half have already elapsed. In addition, the petitioner can also raise all these points before the learned trial Court at the time of framing of charge and the trial Court is also not powerless to address the contention of the petitioner to find out prima facie what offence the petitioner has committed

by such Act for the purpose of framing of charge. It is also not in dispute that the informant has approached the Apex Court in Special Leave to Appeal (Crl) No.3588 of 2026, wherein the Apex Court has passed the following order: -

> *"1. After hearing learned counsel, at present, we are not inclined to interfere with the order impugned. However, the petitioner is permitted to bring to the notice of the trial Court that the charge-sheet as filed under Section 294 and 304A IPC is not justified and in fact, it is a case of Sec.302 of IPC. On raising such point, the trial Court shall consider the said issue in accordance with law looking to the evidence available on record. If needed, the trial Court may ask for necessary investigation and report to ascertain the contentions.*
>
> *2. With the aforesaid observation, at present, the special leave petition stands disposed of."*

6. It is no doubt contended on behalf of the petitioner that the wife of the deceased has in fact claimed insurance amount against the policy taken by her deceased-husband by showing the cause of death of the deceased to be on account of accident, but such document being not the part of investigation, and the document produced by the petitioner in support of such

claim can only be considered for his defence at appropriate stage, but not at the stage of taking cognizance of offence, such contention is liable to be rejected only.

7. In the aforesaid facts and circumstances and on consideration of the materials placed on record together with the further remedy still available to the petitioner to raise all those points at the time of framing of charge, this Court does not consider it proper to interfere with the impugned order at this stage after lapse of near about one and half years of passing of it.

8. In the result, the criminal revision stands dismissed, but the petitioner is at liberty to raise all these points as available to him at the stage of framing of charge, if the same has not been done.

Signature Not Verified
Digitally Signed
Signed by: JAYAKRUSHNA DASH
Reason: Authentication
Location: High Court of Orissa, Kataka
Date: 13-Nov-2026 18:17:03

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 13th day of November, 2026/Jayakrushna