IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV NO.738 of 2026
CNR NO. ODHC010724452026

(In the matter of application under Section 442, read with Sec.438 of BNSS which corresponds to Sec. 401 of CrPC read with Sec. 379 of CrPC).

Soumya Ranjan Bhola & others … ***Petitioners***

-versus-

Jyosna Mayee Bhola & another … ***Opposite Parties***

For Petitioner : ***Mr. S.K.Nayak, Advocate***

For Opposite Parties : ***Mr.P.K.Mohanty, Addl. PP***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:03.11.2026(ORAL)

G. Satapathy, J.

1. The present criminal revision is directed against the impugned order dated 25.06.2026 passed by learned JMFC(Cog Taking), Khordha in ICC Case No. 07 of 2024.

2. Heard Saubhagya Ketan Nayak, learned counsel for the revision-petitioners, but this Court considers it proper to dispose of the revision at the threshold of admission since the mandatory

requirement of law U/S. 223 of BNSS has not been followed.

3. Admittedly, the learned JMFC(Cog. Taking), has passed the following order while taking cognizance of offences:

> *"The case record is put up today on the strength of the advanced petition filed by ld. Advocate for the complt. The ld. Advocate for the complt. files a close memo not to give further witness. The same is accepted. I have gone through the averments of the complaint petition, statement of the complainant and statement of two witnesses recorded during enquiry u/s 202 Cr.P.C. On conjoint reading of the aforesaid material on record, I find a prima-facie case against the accused persons namely l.Sarbeswar Bhola, 2. Soumyaranjan Bhola, and 3. Swapneswar Bhola for the offences U/s.294/323/354-B/326(b)/379/506/ 34 of IPC is taken. Complainant is directed to file the process fee and requisites within 7 days for issuance of summons to the accused persons. Put up on 02.07.26 for filing of requisites."*

4. A bare scrutiny of the aforesaid order, nowhere it discloses about hearing of the accused-cum-revision petitioners, but the first proviso appended to Sec. 223 of BNSS mandates that no cognizance of offence shall be taken by the Magistrate without giving

the accused an opportunity being heard and Sec. 223 of BNSS in fact provides the procedure for dealing with the complaint instituted by the complainant. Since the order impugned herein having been passed without following the mandatory provisions of law, the same needs to be set aside and is accordingly set aside.

5. In the result, the criminal revision stands allowed and the matter is remitted back to the learned JMFC(Cog Taking), Khordha for fresh disposal in accordance with law by following the necessary procedure prescribed for taking cognizance of offences in a complaint.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 3rd day of November, 2026/Kishore

Signature Not Verified
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Signed by: KISHORE KUMAR SAHOO
Reason: Authentication
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Date: 03-Nov-2026 16:05:14