IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3627 of 2026

CNR No. ODHC010749162026

Laxmi Narayan Prusty …. ***Petitioner(s)***

Mr. S.K.Mahanty, Advocate

-versus-

Santosh Kumar Behera …. ***Opp. Party(s)***

CORAM:

THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

ORDER

Order No. **28.10.2026**

01. 1. Heard.

2. The petitioner is the complainant in ICC Case No. 2 of 2023 filed against the opposite party for alleged commission of offence under Section 138 of N.I. Act for dishonor of cheque amounting to Rs.6,50,000/-.

3. It appears that the petitioner has filed the complaint on 08.08.2023 and on that date the learned JMFC, Polasara while taking cognizance of the offence, summoned the accused. When the matter was taken up

on 08.11.2024, the accused remained absent, however the counsel for the accused was present and filed hazira. The complainant as well as the counsel for the complainant also remained absent on that day. Therefore, the matter was adjourned to 18.11.2024. On 18.11.2024, again the complainant remained absent. Therefore, relying upon provision under Section 256(1) of Cr.P.C., the learned JMFC, Polasara dismissed the complaint for non-prosecution. The petitioner challenged the said order before the learned Addl. Sessions Judge, Kodala, Ganjam by filing Crl. Revision No.07 of 2024, which was also turned down by the learned Addl. Sessions Judge, Kodala, Ganjam. Hence, he has approached this Court by filing the present application.

4. Learned counsel for the petitioner submits that except on 18.11.2024, the complainant remains present in the proceeding althrough. But for the default in appearing once, the complaint case has been dismissed for non-prosecution. He further submits that the

petitioner is a senior citizen aged about 65 years and for his personal difficulties, he could not appear before the court. However, he undertakes that the petitioner would be prosecuting the complaint case diligently without causing any further delay.

5. Regard being had to the submission made by learned counsel for the petitioner and the fact scenario of the present case, the present petition is allowed subject to the petitioner paying cost of Rs.5,000/- (Rupees five thousand) to the welfare fund of local Bar Association for the delay he has caused. Accordingly, the ICC Case No. 2 of 2023 is restored to its original file. The learned JMFC, Polasara shall issue fresh summons to the opposite party and proceed with the trial of the case in accordance with law particularly keeping in view the provisions contained under Section 143 (3) of the N.I. Act.

Signature Not Verified
Ashok
Digitally Signed
Signed by: ASHOK KUMAR JAGADEB MOHAPATRA
Reason: Authentication
Location: High Court of Orissa
Date: 29-Oct-2026 11:14:03

(S.S. Mishra)
Judge