**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMC No. 4303 of 2026**

***CNR No.*** ODHC010901032026

***Tribhuban Prasad Parida*** …. ***Petitioner(s)***

*Mr. Partha Sarathi Das, Advocate*

*-versus-*

***State of Odisha*** …. ***Opp. Party(s)***

*Mr. Tej Kumar, ASC*

**CORAM:**

**THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA**

**ORDER**

**Order No.** **19.11.2026**

01. 1. Heard.

2. The petitioner is aggrieved by the order dated 12.11.2026 passed by the Addl. Sessions Judge, Kendudhar in S.T.16/46 of 2025, whereby his application under section 348 BNSS (corresponding to Section 311 Cr.P.C) for recalling of the P.W.6, the I.O. of the case has been turned down.

3. Learned counsel for the petitioner submits that after the I.O. was examined by the prosecution as

P.W.6, another witness has been examined by the prosecution who was not even arrayed as charge sheeted witness. After examination of the said witness (P.W.7), the defence felt it necessary to recall P.W.6, the I.O. of the case to confront him. Hence, he moved the application before the court below to recall PW 6, the IO. However, the learned trial court turned down the application, inter alia, stating as under:-

> "I have heard both the parties at length. Perused the evidence of the IO (PW.6) and evidence of the injured witness (PW.7) and other connected materials available with the case record. On perusal of the evidence of both the witnesses, it is not required to recall the IO (PW.6) to further cross examine him by the ld. defence counsel. As such, the petition filed on behalf of the accused to recall PW.6 deserves no positive consideration and the same stands rejected. Put up on 13.11.2026 for examination of the accused u/s 351 of the BNSS. The accused is directed to remain present on the date fixed."

4. Since the prosecution has chosen to examine a witness, who was not even a cited witness in the charge sheet, it is obvious that the defence need to examine the I.O. on recall to confront on the material surfaced

from the evidence of PW7. Therefore, the reasoning assigned by the learned court below in the impugned order is not sustainable in the facts scenario of the present case. Accordingly, I am inclined to allow the present petition with a direction to the learned trial court to recall P.W.6, the I.O. of the case for further cross examination by the defence. However, it is made clear that a singular chance should be provided to the petitioner for cross examination of the I.O. (P.W.6). The learned trial court shall fix a particular date and summon the said witness. The petitioner shall conclude the cross examination on the same day without seeking adjournment. Further the petitioner shall also furnish the proposed questionnaires, relevancy of which shall be examined by the learned trial court.

5. With the aforesaid observation, the CRLMC is disposed of.

Ashok

***( S.S. Mishra)***
***Judge***

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