IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3941 of 2024
CNR- ODHC010683332024

M/s. Citicon Engineers Orissa Pvt. Ltd., Bhubaneswar .... ***Petitioner***

Represented by Adv.-
Mr. Sidheswar Rath, Advocate

-versus-

Union of India .... ***Opp. Party***

Represented by Adv.-
Mr. Avinash Kedia, Advocate

CORAM:
HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

ORDER
31.08.2026
(Hybrid mode)

Order No.

06. **1.** At the instance of the opposite party- Income Tax Officer (TDS-1), Bhubaneswar, 2(C) C.C. No.191 of 2017 has been initiated against the petitioner. When the evidence in the said case was recorded, the Income Tax Officer (TDS-1), Bhubaneswar was examined as P.W.1. It seems certain documents have been left un-exhibited by the said witness. Therefore, the prosecutor moved an application under Section 311 of Cr. P.C. on 12.12.2024 to recall the witness, which has been allowed by the learned trial Court vide impugned order dated 06.03.2024. The petitioner

being an accused in 2(C) C.C. No.191 of 2017 is aggrieved by the same and has approached this Court in the present petition.

2. Heard Mr. Sidheswar Rath, learned counsel appearing for the petitioner and Mr. Avinash Kedia, learned counsel appearing for the Union of India.

3. Mr. Rath, learned counsel for the petitioner, has drawn the attention of this Court to paragraph-2 of the application moved by the prosecutor under Section 311 of Cr. P.C. Paragraph-2 of the said application, which reads as under:

> *"2. That in course of chief examination, inadvertently show cause notices, forms and other communications exchanged between the complainant and accused could not be exhibited and certificate under Section 65B could not be filed before this Hon'ble Court, as because, the present ITO (TDS-1), Bhubaneswar who is in charge of the file, was on leave, due to which he could not supply the said certificates and true copies of the documents to PW1."*

He submits that by the impugned order, the learned trial Court has allowing the witness to bring on record certain documents, which is not permissible under law.

4. Mr. Kedia, learned counsel appearing for the opposite party submits that the petitioner has the opportunity to cross-examine P.W.1, who is sought to be recalled for further examination vide impugned order. By the impugned order, the learned trial Court

has only allowed the prayer made by the Public Prosecutor for recalling the first witness i.e., the I.T.O. (TDS-1), Bhubaneswar, who was examined as P.W.1. If the petitioner has any objection, he has the liberty to cross-examine the said witness and even object to the document to be brought on record.

5. I agree with the contention raised by Mr. Kedia. There would be no prejudice caused to the petitioner if the witness is recalled for further examination. Therefore, I do not find any reason to interfere with the impugned order dated 06.03.2024 passed by the learned A.C.J.M. (Spl. Court)-cum-A.S.J., Cuttack in 2(C) C.C. No.191 of 2017.

6. Accordingly, the CRLMC stands dismissed.

(Sibo Sankar Mishra)
Judge

Subhasis

Signature Not Verified
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Signed by: SUBHASIS MOHANTY
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 01-Sep-2026 15:34:42