

A.F.R.



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 895 of 2026

(In the matter of an application under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 corresponding to Section 482 of
Criminal Procedure Code, 1973).

Ashok Kumar Mangaraj *Petitioner(s)*

-versus-

Manasi Sahoo *Opposite Party (s)*

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Pravasha Pujaree Parida, Adv.*
Mr. R.K. Panda, Adv.

For Opposite Party (s) : *Mr. Prakash Kumar Mishra, Adv.*

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-18.05.2026

DATE OF JUDGMENT:-25.06.2026

Dr. Sanjeeb K Panigrahi, J.

1. The present petition has been instituted by the Petitioner assailing the legality, correctness, and propriety of the order dated 06.01.2026 passed by the learned J.M.F.C., Khordha in I.C.C. No. 42 of 2022, whereby the application preferred by the Petitioner under Section 313(5) of the Code of Criminal Procedure was rejected. By way of the said application, the Petitioner had sought permission to furnish and suggest specific questions for consideration by the learned Trial Court



while conducting his examination under Section 313 of the Cr.P.C. The proceedings arise out of a complaint case instituted in connection with the alleged dishonour of a cheque, and the grievance of the Petitioner is directed against the refusal of the learned Magistrate to take into consideration the proposed questions sought to be placed on record for the purpose of such examination.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:

- (i) The present proceeding has its genesis in a Complaint Petition filed by the Opposite Party against the present Petitioner, which was registered as I.C.C. No. 42 of 2022 in the Court of the learned Judicial Magistrate First Class (J.M.F.C.), Khordha. The said complaint gave rise to the criminal proceeding in question and forms the foundation of the dispute presently brought before this Court.
- (ii) It is the case of the Opposite Party that she and the Petitioner were acquainted through friendly relations existing between the Petitioner and her husband. According to the complaint, taking advantage of such acquaintance and trust, the Petitioner approached the Opposite Party seeking financial assistance for his business activities and requested a loan of ₹3,50,000/-. It is alleged that, reposing confidence in the Petitioner, the Opposite Party agreed to advance the said amount as a loan.
- (iii) It is further alleged by the Opposite Party that the Petitioner assured her that the loan amount would be repaid within a



period of three months. According to the complaint, despite repeated demands and requests for repayment, the Petitioner failed to discharge the alleged liability. It is stated that, in purported acknowledgment of the outstanding dues, the Petitioner issued Cheque No. 000002 dated 08.02.2022 drawn on HDFC Bank, Atpar Branch, Cuttack, in favour of the Opposite Party. However, upon presentation for encashment, the cheque was returned unpaid with the endorsement "Insufficient Funds".

- (iv) The Opposite Party further alleges that after the dishonour of the cheque, the Petitioner failed to respond to her repeated attempts to contact him and neglected to make payment of the amount allegedly due. Aggrieved by such conduct, the Opposite Party initiated the complaint proceeding which was ultimately registered as I.C.C. No. 42 of 2022 before the learned J.M.F.C., Khordha.
- (v) It is stated that the complaint case has presently reached the stage of examination of the Petitioner under Section 313 of the Code of Criminal Procedure. At this stage, the Petitioner filed an application before the learned Trial Court under Section 313(5) of the Cr.P.C., praying that certain specific and pertinent questions, which according to him arose from the evidence adduced during trial, be incorporated in the questionnaire proposed to be put to him. The Petitioner asserted that the suggested questions were directly connected with the



incriminating circumstances appearing on record and their inclusion was necessary to enable him to furnish a proper and effective explanation during his examination under Section 313 of the Cr.P.C.

- (vi) The learned J.M.F.C., Khordha, upon consideration of the application filed by the Petitioner under Section 313(5) of the Cr.P.C., rejected the same by the impugned order dated 06.01.2026. The learned Trial Court observed that the Petitioner had not acted with due diligence in pursuing the matter and was of the view that the application had been filed at a belated stage with the apparent object of protracting and delaying the progress of the trial. On such reasoning, the prayer made by the Petitioner for incorporation of the proposed questions in his examination under Section 313 of the Cr.P.C. was declined.
- (vii) Being aggrieved by and dissatisfied with the order dated 06.01.2026 passed by the learned J.M.F.C., Khordha in I.C.C. Case No. 42 of 2022, whereby his application under Section 313(5) of the Cr.P.C. was rejected, the Petitioner has approached this Court challenging the legality, correctness, and propriety of the said order.
- (viii) The Petitioner contends that the impugned order has resulted in prejudice to his right to effectively explain the incriminating circumstances appearing against him during his examination under Section 313 of the Cr.P.C. and is therefore liable to be interfered with in exercise of the jurisdiction of this Court.



Being aggrieved by the aforesaid facts and circumstances, the Petitioner has been constrained to approach this Court by way of the present criminal appeal.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

3. The learned counsel for the Appellant respectfully and earnestly made the following submissions in support of his contentions:

- (i) The Petitioner submits that Section 313(5) of the Code of Criminal Procedure embodies an important procedural safeguard intended to secure a fair and meaningful trial. It is contended that the provision is not a mere technical formality but a substantive mechanism designed to ensure that an accused person is afforded an effective opportunity to explain the incriminating circumstances appearing against him in the prosecution evidence. According to the Petitioner, the object underlying the provision is to advance the principles of natural justice and fair play by enabling the Court to elicit a complete and truthful response from the accused before arriving at a determination of guilt or innocence.
- (ii) The Petitioner further submits that the examination of an accused under Section 313 of the Code of Criminal Procedure constitutes a vital component of the criminal trial process and is deeply rooted in the principles of natural justice and fair procedure. It is contended that the said provision affords the accused a valuable and meaningful opportunity to offer an explanation with respect to the incriminating circumstances



emerging from the prosecution evidence. According to the Petitioner, the purpose of such examination is to ensure that no material circumstance is used against an accused without first affording him an opportunity to respond thereto, thereby safeguarding the constitutional guarantee of a fair and impartial trial.

- (iii) The Petitioner contends that the application under Section 313(5) of the Cr.P.C. was filed with the bona fide objective of ensuring that no circumstance emerging from the evidence on record is relied upon against the Petitioner without first affording him an adequate opportunity to explain the same. It is submitted that the questions proposed by the Petitioner were not extraneous or irrelevant but were intrinsically connected with the evidence adduced during the course of trial. According to the Petitioner, the inclusion of such questions was necessary to facilitate a meaningful examination under Section 313 of the Cr.P.C. and to enable him to furnish a proper explanation regarding the incriminating circumstances sought to be relied upon by the prosecution.
- (iv) The Petitioner further contends that the learned Trial Court committed a manifest error in rejecting the application under Section 313(5) of the Cr.P.C. by the impugned order dated 06.01.2026 on the premise that the Petitioner had not acted diligently and that the application was intended merely to protract the trial. It is contended that the learned Trial Court



failed to appreciate the true scope and object of Section 313(5) of the Cr.P.C., which expressly contemplates assistance from the parties in the formulation of relevant questions to be put to the accused. According to the Petitioner, the application was filed bona fide to facilitate a comprehensive and meaningful examination under Section 313 of the Cr.P.C. and to ensure compliance with the principles of natural justice. It is, therefore, argued that the application was not a dilatory tactic but a legitimate exercise aimed at securing a fair opportunity to explain the circumstances appearing in the evidence against the Petitioner.

- (v) The Petitioner placed reliance upon the judgment of the Hon'ble Supreme Court in *Raj Kumar @ Suman vs. State (NCT of Delhi)*¹, wherein it was emphasized that the purpose of Section 313 is to establish a direct dialogue between the court and the accused. The Court noted that Section 313(5) was specifically added to seek the assistance of advocates in framing questions to ensure no incriminating circumstance is left out.
- (vi) The Petitioner also relied upon the Hon'ble Apex Court's decision in *Samsul Haque vs. State of Assam*², that the failure to put every incriminating circumstance to the accused is a serious lapse that vitiates the trial if it causes prejudice. This, it is argued, underscores why the assistance of counsel in framing

¹ 2023 INSC 520

² 2019 INSC 953



questions under Section 313(5) is crucial for a meaningful examination.

- (vii) In view of the aforesaid submissions, learned counsel for the Petitioner prays that the impugned order dated 06.01.2026 passed by the learned J.M.F.C., Khordha in I.C.C. Case No. 42 of 2022 be set aside as being contrary to the object and spirit of Section 313(5) of the Code of Criminal Procedure. It is further contended that the learned Trial Court be directed to consider and incorporate the relevant questions proposed by the Petitioner, to the extent they arise from the evidence on record, so as to ensure a meaningful and effective examination under Section 313 of the Cr.P.C. According to the Petitioner, such a course would enable him to adequately explain the incriminating circumstances appearing against him and would subserve the ends of justice by safeguarding the fairness of the trial process.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY:

4. *Per contra*, the learned counsel for the Opposite Party earnestly made the submission that the present CRLMC is not maintainable before this Court and deserves to be rejected in limine.
- (i) The Opp. Party submits that the trial has progressed substantially and that the complainant, examined as P.W.1, was subjected to extensive cross-examination on behalf of the defence. It is contended that upon completion of the examination of P.W.2, the evidence on behalf of the complainant



stood closed by order dated 16.10.2025. Thereafter, having reached the stage contemplated under Section 313 of the Code of Criminal Procedure, the case was posted for recording the statement of the accused with respect to the circumstances appearing in the evidence adduced during trial.

- (ii) The Opp. Party further submits that despite the matter being posted on several occasions for recording of the statement of the accused under Section 313 of the Cr.P.C., the Petitioner repeatedly sought adjournments and failed to cooperate with the progress of the trial. It is contended that only after the learned Trial Court, by order dated 27.11.2025, granted a final opportunity for recording of his statement, the Petitioner filed an application under Section 313(5) of the Cr.P.C. on 06.12.2025. According to the Opposite Party, the timing of the application clearly demonstrates an attempt to delay and protract the proceedings rather than a genuine effort to facilitate a fair examination.
- (iii) It is further submitted that the Petitioner has not approached this Court with complete candour, inasmuch as he has failed to annex the very application dated 06.12.2025, which formed the subject matter of the impugned order, to the present Criminal Miscellaneous Case. Such omission, according to the Opposite Party, amounts to suppression of a material document and disentitles the Petitioner from seeking discretionary relief under the inherent jurisdiction of this Court.



- (iv) The Opp. Party further contends that the language employed in Section 313(5) of the Code of Criminal Procedure is enabling and discretionary in nature and does not confer any indefeasible or vested right upon an accused to insist upon the inclusion of questions suggested by him. It is contended that the provision merely empowers the Court to seek assistance from the prosecution or the defence, wherever considered necessary, for the purpose of facilitating the examination of the accused.
- (v) It is further submitted that the present case pertains to a straightforward prosecution arising out of the dishonour of a cheque and does not involve any complex factual or legal issues warranting recourse to the procedure contemplated under Section 313(5) of the Cr.P.C. According to the Opposite Party, the learned Trial Court rightly took note of the conduct of the Petitioner and the repeated adjournments sought by him at the stage of recording of his statement. In such circumstances, it is contended that the learned Trial Court was fully justified in concluding that the application was intended to delay the proceedings and in rejecting the same by the impugned order.
- (vi) The Opposite Party further submits that Section 143(3) of the Negotiable Instruments Act, 1881 mandates expeditious disposal of complaints under the Act and contemplates that such trials should, as far as practicable, be concluded within six months from the date of filing of the complaint. It is further contended that, in view of the legislative intent to ensure speedy



adjudication of cheque dishonour cases, dilatory tactics adopted by an accused ought not to be countenanced by the Court.

- (vii) It is further argued that no prejudice whatsoever has been caused to the Petitioner on account of the rejection of his application under Section 313(5) of the Cr.P.C. According to the Opposite Party, the Petitioner was afforded full opportunity to contest the case, including the right to extensively cross-examine the complainant and other prosecution witnesses. It is submitted that the Petitioner also had adequate opportunity to have his statement recorded under Section 313 of the Cr.P.C., but failed to avail the same and instead sought repeated adjournments. In such circumstances, it is contended that the impugned order does not suffer from any legal infirmity warranting interference by this Court.
- (viii) Learned counsel for the Opposite Party lastly submits that the complaint case has remained pending since the year 2022 and that the protracted litigation has subjected the Opposite Party to considerable mental distress, financial hardship, and unnecessary inconvenience. It is contended that any further delay in the progress of the trial would defeat the object of expeditious disposal envisaged under the Negotiable Instruments Act and would seriously prejudice the interests of the complainant.
- (ix) Accordingly, it is urged that the present petition is devoid of merit and has been instituted solely to obstruct and delay the



conclusion of the trial. The Opposite Party, therefore, prays for dismissal of the petition with exemplary costs so as to discourage abuse of the judicial process and to secure the ends of justice.

IV. COURT'S REASONING AND ANALYSIS:

5. Heard Learned Counsel for parties and perused the documents placed before this Court.
6. Upon a careful consideration of the rival submissions advanced by the parties, the materials available on record, and the statutory framework governing the field, this Court is of the considered view that the principal question that falls for determination is whether the application preferred by the Petitioner under Section 313(5) of the Code of Criminal Procedure constitutes a bona fide invocation of a procedural safeguard intended to secure a fair and meaningful opportunity of defence in consonance with the principles of natural justice, or whether the same has been instituted at an advanced stage of the proceeding as a stratagem to protract and impede the expeditious conclusion of the trial. The answer to this issue necessarily requires an examination of the scope and object of Section 313(5) Cr.P.C., the stage at which the application came to be filed, the nature of the questions sought to be incorporated, and the extent to which their inclusion is necessary for ensuring a fair, effective, and legally sustainable adjudication of the case.
7. This Court is mindful of the settled legal position that Section 313 of the Code of Criminal Procedure embodies a salutary and



indispensable safeguard within the framework of a criminal trial. The provision is based on the principles of fairness and natural justice and serves the important purpose of affording the accused a meaningful and effective opportunity to explain the incriminating circumstances appearing against him in the prosecution evidence. It ensures that no material circumstance adverse to the accused is relied upon by the Court without first enabling him to offer his explanation thereto. The examination contemplated under Section 313 Cr.P.C. is thus not an empty formality, but a substantive procedural protection intended to preserve the fairness of the adjudicatory process and to assist the Court in arriving at a just, informed, and legally sustainable conclusion.

8. Similar interpretation was reiterated in the case of *Raj Kumar @ Suman v. State of (NCT of Delhi)* (supra), , wherein it has been held that:

“19. The object of Section 313 of the Code is to establish a direct dialogue between the Court and the accused. If a point in the evidence is important against the accused, and the conviction is intended to be based upon it, it is right and proper that the accused should be questioned about the matter and be given an opportunity of explaining it.”

9. This Court also derives support from the decision rendered in *Ashraf Ali v. State of Assam*,³, wherein it has been held that:

“21. Section 313 of the Code casts a duty on the Court to put in an enquiry or trial questions to the accused for the purpose of enabling him to explain any of the circumstances

³ 2008 16 SCC 328



appearing in the evidence against him. It follows as necessary corollary therefrom that each material circumstances appearing in the evidence against the accused is required to be put him specifically, distinctly and separately and failure to do so amounts to a serious irregularity vitiating trial, if it is shown that the accused was prejudiced.

*22. The object of Section 313 of the Code is to establish a direct dialogue between the Court and the accused. If a point in the evidence is important against the accused, and the conviction is intended to be based upon it, it is right and proper that the accused should be questioned about the matter and be given an opportunity of explaining it. Where no specific question has been put by the trial Court on an inculpatory material in the prosecution evidence, it would vitiate the trial. Of course, all these are subject to rider whether they have caused miscarriage of justice or prejudice. This Court also expressed similar view in *S. Harnam Singh v. The State* (AIR 1976 SC 2140), while dealing with Section 342 of the Criminal Procedure Code, 1898 (corresponding to Section 313 of the Code). Non-indication of inculpatory material in its relevant facets by the trial Court to the accused adds to vulnerability of the prosecution case. Recording of a statement of the accused under Section 313 is not a purposeless exercise."*

10. However, a plain and purposive reading of Section 313(5) of the Code of Criminal Procedure makes it abundantly clear that the said provision is enabling in nature and vests discretion in the Court, rather than creating any mandatory obligation to incorporate questions as suggested by the parties. The scheme of Section 313 Cr.P.C., including sub-section (5), leaves it to the judicial wisdom of the trial Court to determine the necessity, relevance, and propriety of



framing or incorporating any specific questions, depending upon the facts and circumstances of each case.

11. In the present case, the Court finds that the dispute arises out of a straightforward prosecution under Section 138 of the Negotiable Instruments Act, 1881, which does not involve intricate factual matrices or complex evidentiary issues warranting structured assistance from the defence in framing questions for the purpose of examination under Section 313 Cr.P.C. Accordingly, the invocation of Section 313(5) Cr.P.C. in the present case is required to be assessed in the aforesaid factual backdrop.
12. It is pertinent to note the conduct of the Petitioner during the course of the trial proceedings. The record discloses that upon closure of the complainant's evidence on 16.10.2025, the matter was posted for recording of the statement of the accused under Section 313 of the Code of Criminal Procedure.
13. Thereafter, the Petitioner is stated to have sought repeated adjournments and failed to appear for the purpose of recording his statement before the learned Trial Court. It was only when the learned Trial Court, by order dated 27.11.2025, granted a final opportunity for the said purpose, that the Petitioner filed the present application under Section 313(5) of the Cr.P.C. on 06.12.2025. The timing and circumstances of the filing of the said application, as reflected from the record, are relevant factors for consideration in assessing the bona fides thereof.



14. Furthermore, Section 143(3) of the Negotiable Instruments Act, 1881 mandates that, as far as practicable, the trial of complaints under Section 138 of the Act shall be concluded expeditiously and preferably within a period of six months from the date of institution of the complaint, reflecting the legislative intent to ensure speedy adjudication in cheque dishonour cases. In the facts of the present case, it is evident that no substantial prejudice can be said to have been caused to the Petitioner, inasmuch as he has already been afforded adequate and effective opportunity to cross-examine the complainant at length and to contest the prosecution evidence in accordance with law.
15. The exercise of discretion by the learned Trial Court appears to be judicious and in conformity with the settled principles governing the scope of Section 313(5) Cr.P.C. Considering the straightforward nature of the prosecution under Section 138 of the Negotiable Instruments Act, 1881, and the attendant circumstances indicating dilatory conduct on the part of the Petitioner, the refusal to entertain the said application cannot be faulted with.

V. CONCLUSION:

16. In view of the foregoing discussion and upon an anxious and careful consideration of the facts and circumstances of the case, this Court is of the considered opinion that the learned J.M.F.C., Khordha, has committed no error, either factual or legal, in rejecting the petition dated 06.12.2025 filed by the Petitioner under Section 313(5) of the Code of Criminal Procedure.



17. Accordingly, the CRLMC stands **dismissed**.
18. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated 25th June, 2026/*