



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3107 of 2017

Gitarani Padhi

....

Petitioner

*Ms. Baishakhi Mohanty, Advocate,
on behalf of Mr. Prasanta Kumar Sahoo, Advocate*

-versus-

1. State of Odisha

2. Madhusudan Padhi

3. Mamata Padhi

....

Opposite Parties

*Mr. Ashok Kumar Apat,
Additional Government Advocate*

CORAM:

THE HON'BLE MISS JUSTICE SAVITRI RATHO

ORDER

09.02.2026

Order No.

08.

(Through hybrid mode)

1. The CRLMC has been filed challenging the order dated 12.11.2016 passed by the learned SDJM, Bhadrak in G.R. Case No.- 2103 of 2012, arising out of 1CC No. 700 of 2012, discharging the Opposite Party Nos.2 and 3 from the above case.

2. Mr. A.K. Apat, learned Additional Government Advocate submits that the brief is not available in their office for which an extra copy may be served on him.

3. Ms. Baishakhi Mohanty, learned counsel appearing on behalf of Mr. P.K. Sahoo, learned counsel for the Petitioner submits



the application filed by the learned APP under Section 321 of the Cr.P.C. to withdraw the case which was allegedly lingering due to non-appearance of the accused persons, was without any authority, but the case was illegally permitted to be withdrawn and the accused persons discharged. Drawing attention of the Court to the letter dated 25.10.2016 of the Special Secretary to Government, Home Department, she submits that the categories of the cases in which the Assistant Public Prosecutor/ Public Prosecutor were directed to file petitions under Section 321 of the Cr.P.C. did not cover cases involving the offences under Sections 354 and 294 of the IPC. In Serial No.12 of the categories have been specifically mentioned that all cases under the IPC which are covered under Sections 320(1) and 320(2) of the Cr.P.C. being triable by the Judicial Magistrates and cases under Sections 160, 277, 278, 279, 282, 284, 285, 286, 287, 288, 289, 290, 294, 309, 336, 337, 338, 426 and 510 of IPC have been specifically mentioned and offence under Sections 294 and 354 of the IPC are not covered under Sections 320(1) and 320(2) of the Cr.P.C. and hence application filed for withdrawal was misconceived.

4. Office note indicates that neither the AD nor the unserved notice issued to Opposite Party No.2 has been returned.



5. The case record reveals that copy of the CRLMC had been served in the office of the learned Advocate General on 27.10.2017.
6. Considering the fact that the case is pending since 2017, Mr. A.K. Apat, learned Additional Government Advocate is directed to cause service of the petition on Opposite Party No.2, through the I.I.C., Bhadrak (Rural) Police Station.
7. Considering the request of the learned Additional Government Advocate for an extra copy, Ms. Baishakhi Mohanty, learned counsel undertakes to serve an extra copy of the petition on Mr. A.K. Apat, learned Additional Government Advocate, in course of the day.
8. List this case on 24.02.2026.

(Savitri Ratho)
Judge

RKS