



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3107 of 2017

(An application under Section 482 of Criminal Procedure Code)

Gitarani Padhi

....

Petitioner

-versus-

1. State of Odisha

2. Madhusudan Padhi

3. Mamata Padhi

....

Opposite Parties

Advocates appeared in this case through hybrid mode:

For Petitioner : Ms. Baishakhi Mohanty, Advocate
on behalf of Mr. Prasanta Kumar Sahoo,
Advocate

For Opposite Parties : Mr. Saroj Kumar Rout,
Additional Standing Counsel
(For Opposite Party No.1)

CORAM:

THE HON'BLE MISS JUSTICE SAVITRI RATHO

J U D G M E N T

.....
Date of hearing and Judgment : 27.02.2026
.....

Savitri Ratho, J. The CRLMC has been filed with the prayer to set aside the order dated 12.11.2016 passed by the learned SDJM, Bhadrak in GR Case No.2103 of 2012 arising out of 1CC No.700 of 2012 thereby discharging the Opposite Party Nos.2 and 3 from the case in contravention to legal provisions.



CASE OF THE COMPLAINANT

2. The case of the Petitioner is that the Petitioner had filed a complaint in the Court of learned SDJM, Bhadrak in 1CC Case No.700 of 2012 against the Opposite Party Nos.2 and 3 alleging that on 16.07.2012 at about 09:00 AM the accused persons had come to the Bari of the Petitioner and forcibly taken away branches of the Sirisa tree and when she opposed, the accused persons abused her in obscene language stating as to why her father-in-law filed a case in the Court. When the Petitioner tried to enter her house, the accused persons assaulted her by means of a lathi and accused No.2 pulled her saree abusing her modesty, making her half naked. The accused persons threatened to kill her and her father-in-law.

3. It has been further stated that investigation was carried out in the case by the police although it is not stated in the petition. Perusal of Annexure-1 reveals that the complaint case has been sent to the IIC, Bhadrak Rural P.S. Case No.454 of 2012 and has been registered on 25.12.2024 under Sections 323/294/354/427/506/34 of the IPC against Opposite Party Nos.2 and 3 and after completion of investigation, charge-sheet has been submitted under Sections 323/294/354/427/506/34 of the IPC against them. On 27.02.2013 cognizance of the offences under Sections 323/294/354/427/506/34



of the IPC has been taken by the learned SDJM, Bhadrak and summons had been issued to the accused persons for their appearance. On 12.11.2016 on the strength of the petition filed on behalf of learned Assistant Public Prosecutor (in short, 'APP') under Section 321 of the Cr.P.C. to withdraw the case on the ground that the case is lingering due to non-appearance of the accused persons and continuance of the proceeding would no way serve any fruitful purpose. The learned SDJM examined the record and found that it is a petty year-old case and lingering since long and attendance of the accused persons could not be procured. Taking into account the nature of the offences and the age of the case and the letter No.37772 dated 25.10.2016 Government of Odisha read with Dist. Office Memo No.2439 dated 20.10.2026 held that the purpose of justice would be served if the petition to withdraw the case is allowed. Accordingly, the petition was allowed and the accused persons were discharged.

SUBMISSIONS ON BEHALF OF PETITIONER

4. Ms. Baisakhi Mohanty, learned counsel appearing on behalf of Mr. P.K. Sahoo, learned counsel for the Petitioner submits that the impugned order is not in accordance with the Circular No.5388 dated 25.10.2016 which encloses copy of the letter



No.37772 dated 25.10.2016 and 30963 dated 2.9.2016, Govt. of Odisha, Home Department and submits that the present case does not fall within the categories of cases which had been mentioned in Letter No.37772 of 2016 as the said categories are extracted below:

“CATEGORIES OF CASES TO BE UNDERTAKEN

- 1. Cases under The Motor Vehicle Act and VCR.*
- 2. Cases under The Police Act.*
- 3. Cases under Section 47 of The Bihar and Orissa Excise Act (not involving Sessions offences) where quantity of seized ID/OS/CS Liquor / IMFL is not exceeding 10 liters, all Tadi cases, Mahua Flower cases upto 2 quintals in scheduled areas and Gurwash upto 20 Kgs.*
- 4. Cases under The Standard Weights and Measures (Enforcement) Act*
- 5. Cases under The Minimum Wages Act, The Payment of Wages Act. The Odisha Shops and Commercial Establishment Act and The Factories Act, where prosecution is launched for non-maintenance of registers and records.*
- 6. Cases under The Odisha Fire Works and Loud Speaker Act.*
- 7. Cases under The Odisha Prevention of Gambling Act.*



8. *Cases under The Odisha Prohibition of Smoking Act.*

9. *Cases under The Cattle Tress-pass Act.*

10. *Cases under The Prevention of Cruelty to Animal Act*

11. *Cases under The Urban Police Act.*

12. *All cases under The Indian Penal Code which are covered under Section 320(1) and 320(2) of the Cr.P.C being triable by 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 IPC.*

13. *Cases registered under Odisha Public Distribution System (Control) Order, 2016 filed against ineligible ration card holders covered under letter No. 30963/CP&M, dated 02.09.2016 of the Government of Odisha in Home Department”*

5. She also submits that the petition under Section 321 of the Cr.P.C. mentioned that in Circular No.37772 dated 25.10.2016, the Govt. had accorded permission to seek withdrawal in respect of petty/year-old excise cases lingering since long for appearance/production of the accused. As the case did not fall in the category of those cases, the application for withdrawal could not have been allowed.



SUBMISSIONS ON BEHALF OF STATE

6. Mr. S.K. Rout, learned Additional Standing Counsel does not dispute the submission of the learned counsel for the Petitioner regarding the nature of the case which was included in the circular No.37772 of 2016 but he submits that in view of the nature of the allegation of the case and on perusal of the order-sheet in GR Case No.2103 of 2012 would reveal that after Opposite Party Nos.2 and 3 were released on bail on 12.02.2013, the summons have not been served on them for which the case was pending since more than three years and was being adjourned for service of summons. He further submits that in view of the nature of the allegation this Court may not interfere with the impugned order.

CONCLUSION

7. After hearing the learned counsel for the parties and on perusing the orders passed by the learned Magistrate in GR Case No.2103 of 2012 as well as the impugned order dated 12.11.2016 and the petition dated 12.11.2016 of APP and the circular of the Government i.e. No.37772 of 2016, it is apparent that the present case was not covered under the categories of the cases which were mentioned therein. But as it is mentioned in the circular that Assistant Public Prosecutor may be instructed to file a petition for



withdrawal of long pending cases. It appears that although the case was not covered under Serial Nos.2 to 12, as the case is pending for long, the APP had filed the application. The impugned order is therefore liable to be set aside.

8. But in view of the nature of allegations and the relationship between the parties and as more than twelve years have expired since the date when cognizance of the offences was taken, I do not consider this to be a fit case, to exercise power under Section 482 of Cr.P.C. to set aside the impugned order.

9. The CRLMC is accordingly disposed of.

10. The Court appreciates the assistance rendered by Ms. Baisakhi Mohanty, learned counsel for the Petitioner for disposal of the case.

(Savitri Ratho)
Judge

Orissa High Court, Cuttack.
The 27th February, 2026/RKS