

A.F.R.



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1836 of 2025

(In the matter of an application under Section 528 of B.N.S.S., 2023 read with Section 482 of the Code of Criminal Procedure, 1973.)

Biplab Keshari Satapathy and Ors. Petitioner (s)

-versus-

State of Odisha & Anr. Opp. Party (s)

Advocates appeared in the case through Hybrid Mode:

For Petitioner (s) : Mr. S. Das, Adv.

For Opp. Party (s) : Ms. Gayatri Patra, ASC

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-05.02.2026

DATE OF JUDGMENT:-27.02.2026

Dr. Sanjeeb K Panigrahi, J.

1. The present CRLMC petition has been filed under Section 528 of the BNSS challenging the order dated 17.01.2025 passed by the learned Civil Judge (J.D.)-cum-JMFC, Jatni in I.C.C. Case No.71 of 2024, whereby cognizance has been taken against the petitioners under Sections 296/351/304/356/3(5) of the Bharatiya Nyaya Sanhita, 2023.

I. FACTUAL MATRIX OF THE CASE:

2. The facts of the case are as follows:

- (i) The dispute relates to land corresponding to Khata No. 88, Plot No. 298/474, Area 0.020 dec out of A.0.070 dec, Kisam- Puratan



Patita, Mouza- Jatni Town Khas Mahal, Tahasil- Jatni, District- Khurdha.

- (ii) Prior to the criminal complaint, the informant instituted Civil Suit No. 1012 of 2024 before the 1st Additional Civil Judge (Senior Division), Bhubaneswar seeking permanent injunction and ad-interim injunction alleging attempted encroachment by the present petitioners over the suit land.
- (iii) During pendency of the civil suit, the informant filed I.C.C. Case No. 71 of 2024 alleging that on 12.11.2024 the petitioners were constructing a boundary wall over the disputed land and had abused him in filthy language.
- (iv) The petitioners filed objections before the JMFC contending that petitioner No. 4 had purchased the property by registered sale deed dated 10.06.1996 and that the informant had signed the said sale deed as a witness.
- (v) The petitioners further rely upon a previous civil suit (C.S. No. 220 of 2020) involving the informant which was compromised under Order XXIII Rule 3 CPC before the 1st Additional Senior Civil Judge, Bhubaneswar, to assert a pattern of litigation conduct.
- (vi) The sale deed and ROR standing in the name of petitioner No. 4 have now been brought on record through an additional affidavit for proper adjudication.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

3. Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions.



- (i) The core submission is that the dispute between the parties is essentially civil in nature, relating to title and possession over immovable property, and has been deliberately given a criminal colour to exert pressure during pendency of a civil suit.
- (ii) It is contended that the learned Magistrate mechanically took cognizance without examining whether the essential ingredients of the alleged BNS offences which prima facie disclosed from the complaint materials.
- (iii) The petitioners assert that the property stands recorded in the name of petitioner No. 4 by virtue of a registered sale deed, which was witnessed by the informant himself, thereby negating any allegation of unlawful encroachment or criminal intent in the action of the petitioners.
- (iv) It is further argued that parallel initiation of criminal proceedings during pendency of a civil injunction suit is nothing but it amounts to abuse of process of law and falls within the parameters for quashing under inherent jurisdiction of this Court.
- (v) Reliance is placed upon settled jurisprudence that criminal law cannot be used as a tool for harassment or for settling private civil scores when the substratum of the dispute is contractual or purely civil in nature.
- (vi) The petitioners contend that continuation of the proceedings would result in miscarriage of justice, mental harassment, and misuse of judicial process.



III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

4. Learned counsel appearing for the opposite parties opposed the prayer for quashing of the impugned order taking cognizance against the Petitioners and submitted that a prima facie case is made out against the petitioners, and therefore, no interference is warranted at this stage.

IV. ANALYSIS OF THE ORDER OF THE LOWER COURT:

5. The Analysis of the Order of the Lower Court is as follows:

- (i) The learned Magistrate appears to have taken cognizance primarily on the basis of averments in the complaint alleging construction activity and verbal abuse, without a detailed analysis of the underlying civil litigation and title documents.
- (ii) The order of cognizance, at the threshold stage, requires only prima facie satisfaction regarding existence of ingredients of the alleged offences; however, it must reflect judicial application of mind rather than mechanical reproduction of sections.
- (iii) Where civil litigation regarding possession and title is already pending, the court must carefully assess whether the alleged acts constitute independent criminal wrongdoing or are merely manifestations of a property dispute.
- (iv) The presence of a registered sale deed and ROR in favour of one of the accused is a material circumstance that may have bearing on the existence of mens rea, though such documents ordinarily require evidentiary scrutiny.



- (v) The allegation of abusive language and obstruction, if supported by sworn statement under Sections 200/202 CrPC (or corresponding BNSS provisions), may independently justify cognizance irrespective of civil proceedings.
- (vi) The inherent jurisdiction under Section 528 BNSS is to be exercised sparingly, only where continuation of proceedings would amount to abuse of process or where no offence is made out even if allegations are taken at face value.
- (vii) Therefore, the sustainability of the impugned order would ultimately depend upon whether the complaint, read as a whole and accepted at its face value, discloses the basic ingredients of the invoked BNS provisions, independent of the civil dispute over title and possession.

V. EXAMINATION OF THE LEGAL MATRIX:

- 6. Heard learned counsel for the parties and perused the materials placed on record.
- 7. Heard learned counsel for the parties and perused the record. Section 528 of the BNSS (analogous to Section 482 CrPC) confers on this Court inherent power to quash criminal proceedings to prevent abuse of process or miscarriage of justice. The petitioners contend that this complaint arises from a purely civil dispute over the land title and possession, and has been given a criminal colour to harass them during the pendency of the civil suit. They rely on the registered sale deed dated 10.06.1996 and related revenue records showing the disputed plot in petitioner No.4's name (the informant having been a witness to that



sale), arguing that on the face of the complaint no cognizable offence is made out.

8. In support, they invoke settled law that criminal law cannot be used as a tool to settle scores in commercial or contractual matters and that criminal proceedings instituted solely to harass in a civil dispute amount to an abuse of process. The petitioners urge that continuation of the ICC case will result in grave injustice and harassment, warranting exercise of quashing jurisdiction.
9. It is well established that the High Court's power under Section 528 BNSS, formerly Section 482 CrPC, must be exercised sparingly and with caution. The test at the quashing stage is narrow especially when the allegations in the complaint, taken at face value and accepted in their entirety, prima facie make out the offences charged. The Court must not embark on a mini-trial or scrutinize evidence; it needs to see; only if, on the complaint's own terms, a cognizable offence is made out or not.
10. In fact, the Supreme Court in the case of *M/s Indian Oil Corp. v. NEPC India Ltd*¹ was against converting civil disputes into criminal cases, holding that civil remedy availability or even pendency of a civil suit is not by itself a ground to quash. The Court held as follows:

"..A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor

¹(2006) 6 SCC 738



an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint..”

11.However, if the complaint’s allegations are merely manifestations of a property dispute and do not disclose the essential ingredients of any offence, then permitting a criminal case to continue would be an abuse of process. As reiterated in *S.N. Vijaylakshmi v. State of Karnataka*², criminal proceedings in a civil dispute require an overwhelming element of criminality, vague or collateral allegations cannot be used to derail a civil suit. The Court held as follows:

“The obvious caveat being that the allegations, even if having a civil flavour to them, must prima facie disclose an overwhelming element of criminality. In the absence of the element of criminality, if both civil and criminal cases are allowed to continue, it will definitely amount to abuse of the process of the Court, which the Courts have always tried to prevent by putting a stop to any such criminal proceeding, where civil proceedings have already been instituted with regard to the same issue, and the element of criminality is absent. If such element is absent, the prosecution in question would have to be quashed.”

12.Hence, if on face value, no offence is made out or the prosecution is manifestly mala fide, quashing is appropriate course of action which will scuttle the unnecessary criminal trial.

13.The informant’s private complaint alleges that on 12.11.2024 the petitioners were constructing a boundary wall on the disputed land and had verbally abused him in filthy language. Taken at face value, these allegations do not disclose any clear offence under the invoked BNSS provisions. The offence under sections invoked largely concern criminal

²2025 INSC 917



trespass or voluntarily causing hurt. Construing the allegations strictly, an attempt to erect a wall on disputed land might at most amount to trespass; but if the petitioners were in lawful possession (as their sale deed and revenue record indicate), no trespass would lie.

14. Similarly, "filthy language" alone does not constitute the hurt or assault envisioned by sections 304/356. In short, on the facts as pleaded, there is no prima facie offence independent of the title dispute. Thus, accepting the informant's allegations fully, they at most reflect a civil disagreement over land, not a distinct criminal act.

15. The pendency of Civil Suit No.1012/2024 between the parties is significant context. The petitioners assert that they had moved the civil court for injunction against encroachment on this same plot. A string of judicial precedents have clarified that simply because a civil remedy has been or can be pursued is not per se a bar to criminal prosecution, but it is a relevant factor in gauging abuse.

16. To this effect, the Supreme Court in the case of *Indian Oil Corporation (Supra)* held as follows:

"As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not."

17. However, in this case the criminal component appears to be simply the non-violent act of building a wall and shouting abuse, actions arising from the land dispute itself. There is no separate criminal misconduct alleged, such as forgery, fraud or physical assault, which the civil court



cannot adjudicate. Indeed, the petitioners' registered title suggests that the subject matter of the litigation is strictly civil.

18. This practice of camouflaging such civil disputes as criminal cases has been repeatedly condemned. However, when the accused produce unimpeachable documents showing their bona fides, courts have looked at those to decide abuse of process. Here, the sale deed and ROR filed by petitioner No.4 are of such documents, suggesting that continuation of this prosecution would serve no purpose except harassment.

19. Applying these principles, this Court notes that if the allegations of the complaint are taken on their face, no cognizable offence is made out and the complaint appears to be nothing but a veiled attempt to pressurize the petitioners in the civil suit. This falls squarely within the ambit of a criminal process whose sole objective is vindictiveness and a litigious mind-set.

VI. CONCLUSION:

20. This Court, therefore, is of the view that continuation of the ICC Complaint would amount to misuse of the criminal process. The petitioners have made out a prima facie case under Section 528 BNSS for quashing. Accordingly, taking the complaint in its entirety, even if accepted as true, no offence under Sections 296/351/304/356 BNSS stands out on the facts alleged. The impugned order of cognizance, having been given without proper application of mind to these facts, cannot stand.

21. In the result, the petition is **allowed**. The order dated 17.01.2025 taking cognizance passed by the learned Civil Judge (J.D.)-cum-JMFC, Jatni in



ICC Case No.71 of 2024 is quashed, and all criminal proceedings arising therefrom stand quashed.

22.The interim order, if any, passed earlier staying the proceedings is vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 27th February, 2026/*