

**IN THE HIGH COURT OF ORISSA AT CUTTACK****CRLMC No.2052 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.)

Trinath Behera

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Petitioner (s)***-versus-******M. Ravi and Another***

....

Opp. Party (s)

Advocates appeared in the case through Hybrid Mode:

For Petitioner (s)

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Mr. Shibani Shankar Pradhan, Adv.***Mr. S.R. Roul, Adv.******Mr. S.K. Mishra, Adv.******Mr. B.P. Pradhan, Adv.******For Opp. Party (s)***

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None for O.P.1***Mr. U.R. Jena, AGA******(for O.P.2)*****CORAM:****DR. JUSTICE SANJEEB K PANIGRAHI****DATE OF HEARING:-18.02.2026****DATE OF JUDGMENT:-27.02.2026****Dr. Sanjeeb K Panigrahi, J.**

1. The present CRLMC challenges the order dated 25.10.2024 passed by the learned JMFC (R)(Cognizance Taking), Berhampur in I.C.C. No. 88 of 2023 arising out of Gopalpur P.S. Case No. 95 of 2022 corresponding to G.R. Case No.1063 of 2022, whereby cognizance was taken under Sections 341/294/506 IPC against the petitioner, who was serving as



Executive Officer, NAC Gopalpur at the relevant time and is presently posted as Assistant Commissioner, CMC Cuttack.

I. FACTUAL MATRIX OF THE CASE:

2. The facts of the case are as follows:

- (i) The genesis of the dispute relates to an incident dated 23.05.2022 involving the petitioner and the complainant, who was working as a tractor driver engaged in sanitation work under Gopalpur NAC. Allegations were made that the petitioner abused and threatened the complainant during a confrontation concerning non-completion of sanitation work.
- (ii) Two FIRs were lodged on the same date. The petitioner first lodged Gopalpur P.S. Case No. 94 of 2022 at 9:30 A.M. alleging abuse and threat by the complainant. Thereafter, at 1:50 P.M., the complainant lodged the counter FIR which was registered as Gopalpur P.S. Case No. 95 of 2022.
- (iii) After investigation into the complainant's FIR, the Investigating Officer submitted Final Form (FR False) vide Gopalpur P.S. F.F. No. 89 dated 30.06.2022. Subsequently, the complainant filed a Protest Petition which was registered as I.C.C. No. 88 of 2023, leading to inquiry under Sections 200 and 202 CrPC and eventual taking of cognizance.
- (iv) The learned Magistrate, after recording initial statement and inquiry evidence, held that a prima facie case exists and concluded that sanction under Section 197 CrPC was not required



as the alleged acts of abuse and threat could not be treated as acts done in discharge of official duty.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

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

- (i) The petitioner contends that the impugned prosecution is manifestly mala fide and has been instituted as a counter-blast to the FIR earlier lodged by him against the complainant, which culminated in submission of charge-sheet against the complainant, thereby revealing the retaliatory nature of the present proceeding.
- (ii) It is submitted that the Investigating Officer, upon examining independent witnesses and NAC staff, found the allegations in the complainant's FIR to be false and accordingly submitted a Final Report. The subsequent Protest Petition, according to the petitioner, is an attempt to revive a case already found baseless after due investigation.
- (iii) The principal legal contention raised is that the petitioner, being a public servant not removable without sanction and acting in his capacity as Executive Officer supervising sanitation work, fulfils the twin requirements of Section 197 CrPC, and the alleged acts occurred in the course of, or at least under colour of, discharge of official duty.
- (iv) The petitioner argues that supervision of sanitation work and calling an employee to account for dereliction of duty falls



squarely within administrative functions, and even assuming arguendo that harsh words were used, the incident is reasonably connected to official duty, thereby mandating prior sanction before cognizance.

- (v) Reliance is placed on authoritative precedents including *Matajog Dobey v. H.C. Bhari*¹ and *D. Devaraja v. Owais Sabeer Hussain*² to contend that where the act complained of is reasonably connected with official functions, absence of sanction vitiates cognizance and continuation of proceedings amounts to abuse of process.

III. ANALYSIS OF THE ORDER OF THE LOWER COURT:

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

- (i) The learned Magistrate examined the complaint, statements under Sections 200 and 202 CrPC, and other materials, and recorded a finding that a prima facie case under Sections 341/294/506 IPC is made out, thereby satisfying the threshold requirement for taking cognizance at the pre-trial stage.
- (ii) On the question of sanction under Section 197 CrPC, the Magistrate undertook a brief analysis of relevant Supreme Court decisions, including *Inspector of Police v. Battenapatla Venkata Ratnam*³, *Parkash Singh Badal v. State of Punjab*⁴, and *Rajib Ranjan v. R. Bijaya Kumar*⁵, and interpreted the law to mean that

¹ AIR 1956 SC 44

² 2020 INSC 436

³ (2015) 13 SCC 87

⁴ (2007) 1 SCC 1

⁵ (2015) 1 SCC 513



acts which are not part of official duty, such as abuse or threat, do not attract statutory protection.

- (iii) The Magistrate distinguished between acts done in discharge of official duty and acts done under mere colour of authority for personal reasons, concluding that abuse or intimidation cannot be treated as part of administrative supervision and therefore does not require prior sanction.
- (iv) The order reflects an understanding that protection under Section 197 CrPC is meant to shield public servants from vexatious prosecution in public interest, but not to provide immunity for acts which are prima facie criminal and unconnected with official functions.
- (v) The lower court, thus, exercised its discretion by focusing on the nature of the alleged act rather than the broader administrative context, and held that absence of sanction does not bar cognizance, leaving the merits of the dispute to be tested during trial.

IV. EXAMINATION OF THE LEGAL MATRIX:

- 5. Heard learned counsel for the parties and perused the materials placed on record.
- 6. The petitioner, an Executive Officer of Gopalpur NAC (now Assistant Commissioner, Cuttack), challenges the learned Magistrate's order dated 25.10.2024 taking cognizance of offences under Sections 341, 294 and 506 IPC arising out of Gopalpur PS Case No.95/2022. In brief, on 23.05.2022 the petitioner, in his official capacity supervising sanitation



work, confronted the complainant (a sanitation tractor-driver) over incomplete work. In the ensuing altercation the petitioner is alleged to have used abusive language and threats. Two FIRs were lodged on the same day: the petitioner's FIR (Gopalpur PS 94/2022) and the complainant's FIR (Gopalpur PS 95/2022). After investigation of the complainant's FIR, the police submitted a closure report (Final Report) on 30.06.2022. The complainant then filed a protest petition (ICC No.88/2023), leading to inquiry under Sections 200 and 202 CrPC. The learned Magistrate, after recording the initial statements, found a prima facie case under Sections 341, 294, 506 IPC and took cognizance on 25.10.2024. Crucially, the Magistrate has held that the alleged abuse and threats were not acts done in the discharge of the petitioner's official duty, and therefore no prior sanction under Section 197 CrPC was required to proceed.

7. The petitioner's grievance is two-fold. First, he contends that the prosecution is nothing but a counterblast to the FIR he filed earlier against the complainant, which was duly investigated and charge-sheeted. He further argues that after a competent investigation process has found the complainant's claims to be false, the protest petition is an attempt to revive a baseless case and harass him. Secondly, he submits that he was a public servant not removable without government sanction, and that calling an errant sanitation worker to account was part of his official duty. Any utterance of harsh words or threats, he argues, was in the course of supervising official work and thus under colour of office. Therefore, under Section 197 CrPC, prior sanction



would have been mandatory before cognizance of any offence arising from that incident. He further contends that acts reasonably connected with official functions require sanction, and that failure to obtain sanction vitiates the proceedings.

8. The State, through the Magistrate's order, controverts these contentions. It holds that the offences alleged, wrongful restraint, obscenity and intimidation, do not reflect in any official duty of an Executive Officer. Even assuming the petitioner was on duty supervising sanitation, the use of abusive language and threats cannot be deemed a *bona fide* act of official administration. Reliance is placed on precedents that a public servant's mere status or presence at the locus does not automatically immunize all acts.
9. Section 197 CrPC shields public servants from criminal prosecution for acts done in the discharge of his official duty without prior government sanction. The protective ambit is narrow and well-defined by the precedents. To this effect, the Supreme Court in the case of *Matajog Dobey (Supra)* held as under:

"There must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the course of the performance of his duty."

10. The test is objective: if the act is one that an official could honestly claim to have done by virtue of his office, sanction is needed; if not, sanction is unnecessary.



11. Subsequent cases have consistently emphasized that Section 197 cannot be used to shield malafides. In *Sambhoo Nath Misra vs State Of U.P.*⁶ a Constitution Bench reiterated that if an accused public servant has committed a crime for personal gain or pleasure, it is not an official act. The Court held as follow:

"The question is ; when the public servant is alleged to have com-mitted the offence of fabrication of record or misappropriation of public fund etc., can he be said to have acted in discharge of his official duties? It is not the official duty of the public servant to fabricate the fake record and misappropriate the public funds etc. in furtherance of or in the discharge of his official duties. The official capacity only enables him to fabricate the record or misappropriate the public fund etc- It does not mean that it is integrally connected or inseparably inter linked with the crime committed in the course of same transaction, as was believed by the learned judge."

12. Similarly, in *Parkash Singh Badal (Supra)*, the Court noted that immunity covers acts in the exercise of government functions, but expressly carved out the exception:

"20. The principle of immunity protects all acts which the public servant has to perform in the exercise of the functions of the Government. The purpose for which they are performed protects these acts from criminal prosecution. However, there is an exception. Where a criminal act is performed under the colour of authority but which in reality is for the public servant's own pleasure or benefit then such acts shall not be protected under the doctrine of State immunity."

13. The guiding principle is that Section 197 protection must be strictly construed so as to advance the cause of honesty, justice and good

⁶AIR 1997 SUPREME COURT 2102



governance, not to facilitate official misconduct. Thus, the settled criteria are: (1) the accused is a public servant not removable without sanction, and (2) the offence was committed in the course of official duty. For the second limb, the act must have a real and direct nexus to the functions of office. If the act is outside the scope of duties, for example, abuse of power for personal reasons or an extortionate act, then no sanction is needed and cognizance may be taken.

14. Applying these principles, the key question is whether the petitioner's alleged act of abusing and threatening the complainant was something he could reasonably claim to have done in the course of discharging his duties. The petitioner's duties involved supervising sanitation work and ensuring compliance. However, there is no statutory or official mandate that empowers the Executive Officer to use abusive language or intimidation to coerce subordinates. Authorizing adequate execution of work does not extend to permitting criminal acts.

15. In this context, the learned Magistrate correctly observed that shouting obscenities or threats is not a part of the official function. The petitioner's use of "harsh words" and a threat to kill the complainant cannot be treated as a bona fide administrative act; at best it was an official acting under mere colour of authority, which the law does not protect.

16. Indeed, the acts complained of i.e. insult and threat, have only a tenuous relation to any official task. At the stage of cognizance inquiry, the Court looks only at the complaint's averments and the attendant facts. The allegation is simply that the petitioner abused the



complainant and threatened him for not completing work. No evidence suggests this was a lawful exercise of any statutory power. On the contrary, such behaviour exceeds any authority vested in the petitioner.

17.No binding authority suggests that scolding or threatening a subordinate, even in discharge of a supervisory role, constitutes a protected “official act”. *Per Contra*, the jurisprudence consistently denies immunity for acts motivated by malice or personal animus. Even if we presume *arguendo* that the petitioner was on duty at the time, his personal actions were not in the course of his official duties.

18.In short, the offences alleged do not arise from any statutory duty of the Executive Officer. They are ordinary criminal offences committed in the course of a workplace dispute. As such, no prior sanction under Section 197 CrPC is legally necessary before prosecuting the petitioner. The learned Magistrate’s conclusion that sanction was not required is thus in accord with the law.

19.As to the petitioner’s allegation of mala fide prosecution, it is noted that at the cognizance stage the court’s role is limited to examining *prima facie* validity of allegations. Courts are not to conduct a mini-trial on motives or evidentiary merits when considering interim relief. Unless it is palpably shown that the complaint was an abuse of process, such claims do not constitute a ground for quashing at this stage. The existence of a prior FIR by the petitioner does not, by itself, bar subsequent prosecution if the offence alleged is a distinct act not protected by immunity.



20. Before parting with the matter, it is necessary to reiterate a principle which, though well settled, is frequently invoked without due regard to its limits. The protection under Section 197 Cr.P.C. is not an omnibus safeguard for every act done by a public servant while on duty or within office premises. The true test is whether the act complained of bears a reasonable and direct nexus with the discharge of an official function. An excess, a personal outburst, or conduct arising from individual temperament cannot be elevated to the status of an “official act” merely because it occurred in the course of employment. To extend such protection indiscriminately would blur the distinction between administrative authority and personal misconduct. The present case, though resting on simple facts, highlights this boundary and may serve to dispel the recurring misconception that official position, by itself, attracts statutory immunity.

V. CONCLUSION:

21. For the reasons above, it is held that the acts complained of in Gopalpur PS Case No.95/2022 were not done in the bona fide discharge of any official duty of the petitioner. Section 197 CrPC does not bar taking cognizance of the offence under Sections 341, 294 and 506 IPC. The learned Magistrate did not err in rejecting the sanction plea, and the impugned cognizance order is in accordance with law.

22. Accordingly, the petition fails on merits and is **dismissed**. The criminal proceedings in ICC No.88 of 2023 arising from Gopalpur PS Case No.95 of 2022 shall proceed.



23.The interim order staying the proceedings, if any, is vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 18th February, 2026/