



THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2240 of 2024

(In the matter of an application under Section 482 of the Code of Criminal Procedure, 1973)

Sunita Datta

.....

Petitioner

-Versus-

State of Odisha and Another

.....

Opp. Parties

For the Petitioner : M/s. Banshidhar Satapathy, S. Satapathy and
B.N. Parida, Advocates

For the Opp. Parties : Mr. S.N. Biswal, Additional Standing Counsel

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 08.04.2025 :: Date of Judgment: 05.05.2025

S.S. Mishra, J.

The present CRLMC is filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973, assailing the order dated 11.01.2021 passed by the learned J.M.F.C., Hatadihi in G.R. Case No.271 of 2020, whereby cognizance of offences under Sections 420, 468, and 471 of the Indian Penal Code has been taken against the petitioner. It is contended that the charge sheet submitted by the Sub-



Inspector, Nandipada, Police Station does not disclose any material sufficient to justify charges alleged in proceeding against the petitioner.

2. Heard Mr. Banshidhar Satpathy, learned Counsel for the petitioner and Mr. S.N. Biswal, learned Additional Standing Counsel for the opposite parties.

3. Prosecution case in brief devoid of unnecessary details is that one Sunita Datta, a qualified graduate holding a Bachelor of Arts and a Bachelor of Education (B.Ed.) degree, had applied for the post of Sikhya Sahayak (Junior Teacher – Contractual). After due verification of her educational credentials, she was appointed to the post vide Order No.711 dated 16.02.2015 issued by the Collector-cum-Chief Executive Officer, Zilla Parishad, Keonjhar, and was posted at Malliposi Govt. Nodal U.P School, Hatadihi.

While serving in the said capacity, the petitioner was disengaged from service vide letter No.2510 dated 03.09.2021 issued by the District Project Coordinator, (SS), Keonjhar, without affording any opportunity of hearing and without conducting any inquiry, on the ground that the B.Ed. certificate produced by her, purportedly issued by Bundelkhand



University, Jhansi was found to be forged. The said disengagement was based on a communication allegedly received from the University.

4. It is submitted that the Bundelkhand University, Jhansi, subsequently issued letters dated 07.09.2020 and 11.11.2020, categorically affirming and conveying that the B.Ed. certificate issued by it was genuine. Despite this, the FIR was lodged by the Block Education Officer, Hatadihi, on 02.09.2020 at Nandipada Police Station continues the proceedings. The relevant part of letter of the BEO, Ghasipura to the IIC, Nandipada Police Station reads as under:

"With reference to the subject cited above, I am to inform you that Smt. Sunita Datta, Jr. Teacher now working at Mallipasi NUPS. Her permanent address is Sunita Datta, W/o-Sashikanta Jena, At-Baniapanka, Po-Padhiaripally, Via-Dhanurjajpur, PS-Soso, Dist-Keonjhar, Mob.No-9439560916 and Sri Sujit Kumar Mohanty, Jr. Teacher Contractual of Soso Nodal UP School. His permanent address is Sujit Kumar Mohanty, S/O-Ganesh Mohanty, At-Uladi, Po-D.Nandpani, Via-Kamarda, PS-Bhogarai, Dist-Baleswar, Mob. No.-9178158624 had produced fake B.Ed certificates during verification.

So, as per kind order of the Collector-cum-CEO, Zilla Parishad, Keonjhar, I am instructed to lodge FIR against the above teachers as they have submitted forged testimonials during verification. "

Based on the said letter, Nandipada P.S. Case No.114 of 2020 was registered under Sections 420, 468, and 471 of IPC. After investigation, the I.O. submitted the Charge Sheet No. 197 dated 31.12.2020 blissfully



ignoring the clarification letter issued by the University. The charge sheet contains the following conclusive remarks.

*“On 02.09.2020 at 8.45PM on the written report of Complt. Kshirod Kumar Tripathy, BEO, Hatadihi above noted case was registered and investigated in to. During the course of investigation I visited the spot, examined the complt. and other witnesses and recorded their statements u/s 161 Cr.P.C who well proved the charge U/S 420/468/471 IPC against the accused persons Smt. Sunita Datta (38) W/O- Sashikant Jena of vill- Baniapank, PS- Soso, Dist- Keonjhar and Sujit Kumar Mohanty(35) S/O Ganesh Mohanty vill Uladi PS Bhagrai Dist Balasore seized the engagement certificates of alleged **accused Sunita Datta** and Sujit Kumar Mohanty, attendance Registers, joinnig reports, Fake BED certificates Marksheets etc. on productions under proper seizure list and left in zima after obtaining Xerox copies, both the accused persons surrendered in the court and released on bail on the same day. There is prima facie evidence U/S 420/468/471 IPC was well made out against both the accused persons. As there is prim facie evidence against the alleged accused persons Smt. Sunita Datta(38) W/O Sashikanta Jena of vill Baniapank PS Soso Dist Keonjhar and Sujit Kumar Mohanty(35) S/O Ganesh Mohanty vill Uladi PS Bhagrai Dist Balasore submit detail investigation report to my honble SP Keonjhar with prayer for full passing orde to submit C.S U/S 420/468/471 IPC the above noted accused persons and received order and who directed me to submit C.S U/S 420/468/471 IPC against the above noted accused persons hence I submitted C.S Vide C.S no. 197 Dt 31.12.20..... ”*

On bare reading of the charge sheet it can be safely inferred that the charge sheet is completely ambiguous and the culmination of completely non application of mind. However, on receipt of the charge sheet, the



learned J.M.F.C., Hatadihi passed the following order taking cognizance of the offences on 11.01.2021:

*" Received C.S. no-197, dt.31.12.2020 U/s-420/468/471 IPC against the accused persons namely (1) **Sunita Dutta (38)**, W/o- **Sashikanta Jena**, (2) Sujit ku. Mohanty(39) vill-Uladi, P.S.-Bhograi, Dist.-Balesore perused the case record & other connected paper. There is prima facie offence punishable u/s-420/468/471 IPC. Hence cognizance of offence punishable u/s-420/468/471 IPC is taken. Hand over the case record to G.C. "*

Petitioner is aggrieved by the aforementioned order and has assailed the same in this proceeding.

5. Learned counsel for the petitioner submits that the entire proceedings is an abuse of the process of law as the basic premise of the prosecution regarding the allegation of production of fake B.Ed. certificate is found to be false and has been contradicted by the issuing authority itself. The Bundelkhand University, vide its letters dated 07.09.2020 and 11.11.2020, clearly stated that the B.Ed. certificate of the petitioner is genuine.

It is further submitted that neither the Investigating Officer nor the court below considered these material documents, and the charge sheet is mechanically filed without any reference to the university's clarification.



6. It is further urged that the State has neither disputed the authenticity of the university's letters, nor is there any material to show that the petitioner has fabricated any certificate and on bare perusal of the charge sheet, it is evident that it suffers from vagueness and lack of application of mind, especially in light of the unimpeached documentary evidence exonerating the petitioner. It would be apt to reproduce the letters received from Bundelkhand University about the clarification regarding the certificate in question for ready reference:

"No.BU/COF/2020-9100

Date 07/09/2020

To

The District Project Coordination

RTE-SSA, Keonjhar

Office of the DPC

Samagra Shiksha

Keonjhar 755001

Subject: Letter of modification

Sir,

This is under Ref. to this Office Letter No. BU/COF/2020/2317 dt. 29.07.2020 is response to your letter for Verification of Education Certification Bearing Letter No. 1440 dt. 20.06.2020.

In this matter, it is informed that some lapse has been revealed in the said verification since (a) the University along with all its dept. was closed at that point of time following a lockdown and Containment declared in the city as a result were not available to the officer on duty (roster), (b) the Verification was made at an haste through the available (just) later on, after reopening of the Office, the Scrutiny revealed the lapses & it is felt necessary to recall the Verification Report with this letter modification for your kind information & record

The result is as follows at actual.

<i>Sl. No.</i>	<i>Name</i>	<i>S/O</i>	<i>Course</i>	<i>Year</i>	<i>Roll No</i>	<i>Result</i>	<i>Remark</i>
<i>1</i>	<i>GOPAL KRUSHNA MOHANTY</i>	<i>PANCHANAN MOHANTY</i>	<i>B.Ed</i>	<i>2014</i>	<i>078604276</i>	<i>PASS</i>	<i>CORRECT & GENUINE</i>



2	PUNYOTOYA CHAKRA	CHAKRADHAR CHAKRA	B.Ed	2014	6522960	PASS	CORRECT & GENUINE
3	SUBASINI DAS	NAKULCH DAS	B.Ed	2013	049678242	PASS	CORRECT & GENUINE
4	SWAGATIKA SAHANI	RAMESH CH. SAHANI	B.Ed	2014	213695	PASS	CORRECT & GENUINE
5	SUJIT KUMAR MOHANTY	GANESH CH. MOHANTY	B.Ed	2013	074627687	PASS	CORRECT & GENUINE
6	SUNITA DATTA	NISHAKAR DATTA	B.Ed	2013	589121704105	PASS	CORRECT & GENUINE
7	ARATRARAN JENA	AKRURA JENA	B.Ed	2013	8802578	PASS	CORRECT & GENUINE
8	DEBASIS SENAPATI	JADUMANI SENAPATI	B.Ed	2013	042503125	PASS	CORRECT & GENUINE

Hence, this letter supersedes the previous letter and the University regrets for the Inconvenience caused to you and or anybody else.”

The reading of the letter makes it evidently clear that the University not only clarifies superseding its previous letter but also expresses regret for inconvenience. It appears from the record that the police have acted upon the letter issued by the university previously which stands superseded by this letter dated 07.09.2020. It also appears that the Investigating Officer didn't make any endeavour to check the authenticity of this clarification letter. At the same time existence of this letter is not doubted at any quarter. Hence, this Court cannot close its eyes while dealing with the issue in Lis to take into consideration the letter dated 07.09.2020.



In addition to the letter dated 07.09.2020 the University have issued another letter bearing No. BU/COF/2020/4547 dated 11.11.2020, requesting to accept the above modification letter.

7. Even after such clarification, the removal from service wounded the petitioner, so the Petitioner came before this Court in W.P.(C) No.35865 of 2021 , in which this Court as an interim relief directed staying the disengagement order. The relevant paragraphs are reproduced herein below for ready reference:

“8. It is submitted by learned counsel for the Petitioner that she has been disengaged from service on the ground that she produced fake B.Ed. Certificate and Mark Sheets at the time of selection issued by the Bundelkhand University, Jhansi. However, the said Certificates could not be verified due to Covid-19 situation. Learned Counsel further stated that petitioner has filed two letters from the Bundelkhand University under Annexures-8 and 9 of the writ petition, whereunder the University has stated that the Certificates issued in favour of the Petitioner are not fake.

9. In such view of the matter, as an interim measure, it is directed that the order of disengagement of the Petitioner dated 03.09.2021 under Annexure-1 shall remain stayed till the next date.”

Following this order the petitioner was reinstated in service by an Office Order of the District Project Office, Samagra Sikshya (SS) & Right to Education (RTE) Keonjhar vide Letter No 410 dated 08.02.2023, which is reproduced for ready reference:



“OFFICE ORDER

The Hon'ble High Court of Odisha in IA No.16655 of 2021 arising out of W.P.C No.35865 of 2021 passed an interim order directing stay operation of the order of disengagement of the petitioner Sunita Datta issued vide this office Letter No-2510/PED(SSRC) dt.03.09.2021 in obedience to the interim order Dtd.11.01.2022 passed in IA No.16655 and keeping in view the order Dtd.15.11.2022 passed in Contempt No-6696 of 2022 Sunita Datta Sikshya Sahayak(JTC) is hereby taken back to his/her previous engagement as Sikshya Sahayak (JTC) subject to final outcome of W.P.C No.35865 of 2021.

On being taken back to his/her previous engagement Sunita Datta is required to furnish an under taking in shape of affidavit to the effect that he/she will abide by the final decision of the Hon;ble High Court in W.P.C No-35865 of 2021 and also he/she will abide by all terms and conditions of her contractual engagement as mentioned in the Resolution No-25605/SME Dtd-26.12.2016 of Govt.in S & ME Deptt, Odisha and such other instructions received from the Govt./OSEPA form time to time.

On being furnished of such undertaking the Block Education Officer, Hatadihi shall allow Sunita Datta to Join as JTC/JT at Malliposi Nodal UPS.

*By the order of Collector-cum-CEO,
Zilla Parishad, Keonjhar.”*

However, even after reinstatement in service the criminal proceeding against the petitioner still continues till date. No doubt the Writ Petition is still pending; the outcome of the same shall have bearing on the fate of the petitioner, regarding her service. But in the absence of any contrary documents doubting the clarificatory letter dated 07.09.2020 issued by the University the petitioner cannot be subjected to ordeal of criminal trial.



8. This Court is of the considered view that continuation of the criminal proceedings against the petitioner despite the unequivocal certification of genuineness of the alleged fake certificate by the concerned university amounts to gross abuse of the process of law.

The law is well settled by the Hon'ble Supreme Court in ***State Of Haryana And Ors vs Ch. Bhajan Lal And Ors***¹, that the inherent powers under Section 482 Cr.P.C. can be invoked to prevent abuse of the process of the court and to secure the ends of justice, and held thus:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or 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 a case against the accused.

¹ 1992 SCC (Cri) 426



(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

Similarly, the judgement of the Hon’ble Supreme Court in ***Mahmood Ali***

v. State of U.P.² also echoes similar principle in which it was held thus:

² (2023) 15 SCC 488



“13. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

In the case at hand, the very foundation of the prosecution is rendered baseless in light of the subsequent clarifications issued by Bundelkhand University. The action of the Block Education Officer in lodging the FIR appears to be hasty and uninformed, and the police investigation, mechanically conducted, ignored crucial exculpatory evidence.

The cognizance order also reflects non-application of judicial mind as the learned Magistrate failed to consider the materials favourable to the accused which were available on record.

9. In view of the above, the criminal proceedings against the petitioner in G.R. Case No.271 of 2020, arising out of Nandipada P.S.



Case No.114 of 2020, including the order dated 11.01.2021 regarding taking cognizance by the learned JMFC, Hatadihi, are hereby quashed.

10. Accordingly, the CRLMC is allowed.

.....
(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
The 5th of May, 2025/ Ashok

Signature Not Verified

Digitally Signed
Signed by: ASHOK KUMAR JAGADEB MOHAPATRA
Designation: Secretary
Reason: Authentication
Location: High Court of Orissa
Date: 05-May-2025 19:01:11

