



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.2083 of 2026

Dusmanta Behera

.....

Petitioner

Represented by Adv. -
Rakesh Behera

-versus-

Santosh Kumar Nayak

.....

Opposite Party

Represented by Adv. -
Saroj Kumar Dash, S.P.
Dash, A.K. srichandan

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
29.07.2026

Order No.

- 02.
1. This matter is taken up through Hybrid mode.
 2. Heard learned counsel for the Petitioner as well as learned counsel for the sole Opposite Party. Perused the CRLMC application as well as the prayer made therein.
 3. The accused in 1.C.C. Case No.5 of 2020 pending in the Court of learned J.M.F.C., Bhuban has approached this Court by filing the present application under Section 482 of the Cr.P.C. challenging order taking cognizance dated 29.09.2021 passed by the above noted court.
 4. Learned counsel for the Petitioner at the outset contended that the sole Opposite Party, as complainant, filed a complaint case bearing 1.C.C. Case No.5 of 2020 in the Court of learned J.M.F.C., Bhuban alleging therein commission of an offence punishable under



Section 138 of the N.I. Act. He further contended that in the complaint petition, the Opposite Party has alleged dishonor of cheque and, as such, claimed that an offence has been committed which is punishable under Section 138 of N.I. Act. While refuting such allegations made in the complaint petition, learned counsel for the Petitioner took a plea that the cheque which the Petitioner presented for payment was an invalid cheque on the date the same was presented to the bank for payment. He further contended that the court of learned J.M.F.C., Bhuban had no jurisdiction to try the case. On the aforesaid two grounds, the Petitioner has approached this Court by filing the present application thereby challenging the order taking cognizance dated 29.09.2021.

5. Learned counsel appearing for the complainant-Opposite Party, on the other hand, contended that the Petitioner has made an attempt to cause delay in conclusion of the trial. He further submitted that earlier the Petitioner had also approached this Court by filing a transfer application bearing TRP(CRL) No.3 of 2025, which was dismissed by a Coordinate Bench vide order dated 21.02.2025 with liberty to the Petitioner to raise all those grounds raised in the transfer application before the learned trial Court. After dismissal of the transfer application, the Petitioner has once again approached this Court by filing the present application under Section 482 of Cr.P.C., thereby challenging the order taking cognizance dated 29.09.2021, at Annexure-2. While opposing the application of the Petitioner, learned counsel for the Opposite Party contended that although the order of cognizance was passed on 29.09.2021, almost five years ago, the Petitioner has approached this Court only in the year 2026. It was also contended that in the meantime two witnesses



have already been examined. In such view of the matter, learned counsel for the Opposite Party contended that the present application is devoid of merit and, accordingly, the same should be dismissed.

6. Having regard to the submissions made by the learned counsels appearing for both sides, and on a careful examination of the background facts as well as on a scrutiny of the order dated 29.09.2021, whereby the learned trial Court has taken cognizance of the offence, this Court, at this belated stage, is not inclined to interfere with the order taking cognizance dated 29.09.2021, at Annexure-2. Accordingly, the application of the Petitioner fails. However, while disposing of the present application, this Court grants liberty to the Petitioner to raise all the grounds taken in this petition as well as any other grounds in support of the Petitioner during trial, which shall be duly considered by the learned trial Court at the time of passing of the final judgment.

7. With the aforesaid observations/directions, the CRLMC application stands disposed of.

(Aditya Kumar Mohapatra)
Judge