A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2643 of 2024

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

Pravakar Mohanty & Anr. .... *Petitioner(s)*

-versus-

State of Odisha (VIG) .... *Opposite Party (s)*

Advocates appeared in the case through Hybrid Mode**:**

For Petitioner(s) : *Mr.Prasanna Kumar Mishra, Adv.*

For Opposite Party (s) : *Mr. Niranjan Moharana, Standing Counsel for Vig. Deptt.*

CORAM:
DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-23.03.2026
DATE OF JUDGMENT:-22.05.2026

Dr. Sanjeeb K Panigrahi, J.

1. The Petitioners have instituted the present Criminal Miscellaneous Case under Section 482 of the Code of Criminal Procedure, 1973/ Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, invoking inherent jurisdiction of this Court, seeking quashing the order dated 03.06.2022 passed by the learned Special Judge Vigilance Cuttack in T.R. No.05 of 2022, corresponding to Cuttack Vigilance P.S. Case No.35 of 2013.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:

(i) On 29.11.2013 the informant and other officials, on the strength of search warrant issued by the learned Court of Special Judge Vigilance, Cuttack at the place of search i.e. residential house of the Petitioner No.l Vill/P.o.- Balianta, P.s.- Pattamundai, Dist.- Kendrapara, Ex-ACTO, Cuttack located at Plot No.l281/2565/3174(Khata No.1071/52 at Jayadurga Nagar, Bomikhal P.s.- Laxmisagar, Bhubaneswar at 6.00 AM for execution of the search warrant. The team of officers arrived in front of the gate and called Pravakar Mohanty. Smt. Chinmayee Mohanty wife of Pravakar Mohany arrived at ground floor and near the gate. On their arrival one Bhagirathi Mohanty who was Inside the gate opened the main gate and informed that the family of Pravakar Mohanty was staying in the first floor. He alsoshowed the door and the calling bell for both the floor and the 2ndfloor. Thereafter, the team waited for about 20 minutes. Mrs. Chinmayee Mohanty opened the door of the stair case room. The team informed about the purpose of visit. Then, Smt. Mohanty informed that Pravakar Mohanty has already joined at Keonjhar as Addl. Treasury Officer after being relived from Cuttack. She allowed the search team to perform their duty and allowed her house to be searched as per the search warrant and put her signature on the search warrant. The informant also informed DSP Vigilance, Keonjhar about the matter and the Petitioner No.l arrived. After arrival of Petitioner No.l all the formalities of search was observed and the search was conducted in presence of the witnesses. The year of acquisition of the properties and its cost were put against all the properties as per the version of Petitioner No.2. All the properties vide 1 to 101 including cash of Rs.26,720/- vide Sl. No.92 and 93 were left as before in Zima of Sri Pravakar Mohanty while documents vide Sl. No.102 to 111 were taken for further verification. The search was started at 6.00 AM and concluded at 6.30 PM. After search the formal FIR was lodged on 18.12.2013 vide Cuttack Vigilance P.S. Case No.35 of 2013.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

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

(i) During course of investigation the I.O. sought for grant of sanction from competent authority. But, the authority declined the proposal to accord sanction for the prosecution against the accused Petitioner No.l Pravakar Mohanty OFS (I), Ex-Addl Treasury Officer, Keonjhar. In spite of refusal of sanction the vigilance police kept the investigation open till the Petitioner No. l got retired and after the retirement submitted charge-sheet pursuant to which the learned trial court took cognizance under section 13(2) read with 13(l)(e) of P.C. Act read with section 109 of I.P.C for trial.

(ii) The vigilance authority took the entire service period as check period which is totally illegal and opposed to law. The law is well settled that the I.O. should not have any authority to take more than 10 years as service period from the entire service period of an Employee. Here in the present case the I.O. took entire service period of Petitioner No.l as check period. The learned trial court should have held that the check period taken by the vigilance department/I.O. is purely illegal. Hence the order of cognizance dated 03.06.2022 against the Petitioners may be set aside.

(iii) The search was made on 29.11.2013 by vigilance team headed by H.S. Mishra DSP Vigilance CD, Cuttack. The FIR was lodged on18.12.2013. Unfortunately the charge sheet was submitted on 10.11.2021. The learned Trial Court took cognizance on03.06.2022. The learned trial court committed gross illegalities by ignoring the fact that sanction was declined by appropriate authority. Though the sanctioning authority denied to grant sanction, the learned trial court took cognizance in absence of sanction. The law is well settled that without sanction a government employee cannot be made to faced trial under P.C. Act and therefore, the learned Magistrate out to have refused totake cognizance. Hence, the impugned order passed by the learned Magistrate is liable to be quashed.

(iv) The investigating authority has not found any D.A from the employee, the petitioner No.l. All the property included in the search/seizure/inventory belongs to Petitioner No.2 Chinmayee

Mohanty the wife of Petitioner No.l who is a C class contractor who is also filing return. Nothing has been seized from the Petitioner No.l by the investigating authority to show he has Disproportionate Assets with him during check period.

(v) Both the Petitioners have filed their income tax return in each year by disclosing their income and expenditure. The Petitioner No.2 wife has sufficient income from out of hercontractor business. The investigating authority has not included the known source of income of the Petitioners though the same has been provided to the investigating authority. If the investigating authority would have included those known source of income then the D.A. could not be shown as 81%.

(vi) The investigating authority with an oblique motive has lodged the FIR and investigated the matter in a wrong track and submitted charge sheet by making a 3rdcase showing the D.A. of Petitioner No.l. The petitioner No.2 wife of Petitioner No.l has independent business and earns much more money from her business, but the same has not been taken into account by the investigating authority. The income of the Petitioner No.2 has been illegally added with the income of Petitioner No.l. The investigation is totally perverse and concocted. The law is well settled that the wife who is a Govt. Employee could not be a party to the D.A. case when she has separate income.

(vii) The Petitioner No.2 is a C class contractor having own source of income. Hence her income could not be dealt with in the investigation and accordingly the learned trial court should not have taken cognizance against her. Hence, the cognizance order dated 03.06.2022 passed by the learned Special Judge Vigilance, Cuttack in T.R. No.05 of 2022 may be quashed.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY:

4. The Learned Counsel for the Opposite Party earnestly made the following submissions in support of his contentions:

(i) After completion of investigation on 16.06.2020 under a wrong notion that the Petitioner No.1 is continuing in service as public servant, sanction for prosecution against him under Section 19 of the PC Act, 1988 was sought for from the competent authority, which was declined vide letter No.18068 dated 14.07.2021.

(ii) Since the Petitioner No.1 is retired from service on 31.03.2018 i.e. much prior to the movement for the sanction for prosecution on 16.06.2020 i.e. before 2 years, and competent authority refused to accord sanction on 14.07.2021 i.e. after more than 3 years for commission of offences under Section 13(2) r/w 13 (1) (e) of the PC Act 1988 and under Section 109 of the IPC to fact the trial. Cognizance of the offences was taken on 03.06.2022. Therefore, the contentions of the Petitioners to the effect that prosecution waited for retirement of the Petitioner to file charge sheet, appears to be based on wrong surmise, assumptions and fallacious.

(iii) The Supreme Court in the case of ***K. Veeraswami vrs. Union of India***[1]and subsequent judgment in the case of ***CBI vrs. B.A. Srinivashan***[2]has held that *no sanction is necessary under Section 19 of the PC Act 1988 to prosecute in offences punishable under the PC Act, in respect of a person who ceased to be a public servant at the time the Court took cognizance. It is also held that the protection under Section 19 of the PC Act is available to a public servant only till he is in employment and no sanction there under is necessary in post-retirement or the public servant has admitted office on retirement from service. It is also held that "the High Court is not justified in observing that, the protection under Section 19 of the PC Act 1988 available to a public servant while in service, should also be available after his retirement"*

(iv) In view of the aforesaid position of law, since the Petitioner No.1 is retired from service on 31.03.2018 i.e. prior to the movement of the sanction for prosecution on 16.06.2020 and consequential refusal order dated 14.07.2021 and the I.O. submitted charge sheet against the Petitioners on 10.11.2021 for commission of offences under Section 13(2) r/w 13 (1)(e) of the PC Act, 1988. The Petitioner No.2 is not a public servant and sanction against her is not required.

(v) In the case of ***State Represented By Deputy Superintendent of Police, Vigilance and ACB, Chennai City Dept. vrs. G.***

[1] (1991) 3 SCC 655
[2] (2020) 2 SCC 153

Easwaran[3] the Supreme Court has held that *validity of sanction or delay in grant of sanction is a matter to be examined during the trial. It is also held that High Court must not undertake a mini trial or re-assess evidence at the quashing stage.*

(vi) Since the Petitioner No.2 who is the wife of the principal accused was falling IT Returns without any lawful sources of income, and has actively involved in possessing valuable assets in her name and took defence as well as intentionally added or assisted and allowed her husband in accumulation assets in her name to cover up his ill-gotten money. Hence, she is guilty of offence of abetment under Section 109 of the IPC.

(vii) In the case of ***State through Dy. Superintendent of Police vrs. R. Soundirarasue*** **etc**[4] has held as under:

> *"46. The second contention canvassed on behalf of the accused persons that every bit of information in regard to the assets had been intimated to the Income Tax Authorities and the documents in regard to the same should be sufficient to exonerate the accused persons from the charges is without any merit.*
> *Xxx xxx xxx*
> *Submission of income tax returns and the assessments orders passed thereon, would not constitute a fool proof defence against a charge of acquisition of assets disproportionate to the known lawful sources of income as contemplated under the PC Act and that further scrutiny/analysis thereof is imperative to determine as to whether the offence as contemplated by the PC Act is made out or not."*

(viii) There is no illegalities in the impugned order of cognizance dated 03.06.2022. Hence, the prayer made in the present CRLMC by the Petitioners may be dismissed.

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[3] (2025) INSC 397
[4] (2022) 88 OCR (SC) 482

IV. COURT'S REASONING AND ANALYSIS:

5. At the very threshold, this Court considers it apposite to remind itself of the well-defined contours governing the exercise of inherent jurisdiction under Section 482 Cr.P.C./ Section 528 B.N.S.S. It is true that the power vested in the High Court is of the widest amplitude and is intended to secure the ends of justice and prevent abuse of the process of Court, such extraordinary jurisdiction is not meant to be invoked in a routine or mechanical manner. The settled canon of criminal jurisprudence is that quashing of criminal proceedings at the nascent stage remains an exception rather than the rule. Interference is justified only where the allegations, even if accepted in their entirety, fail to disclose the essential ingredients of any offence, or where the prosecution is manifestly attended with mala fides, frivolity or legal absurdity.

6. The Court, while exercising jurisdiction at the stage of cognizance, does not sit in appeal over the investigative process nor undertake a meticulous dissection of the evidentiary materials collected during investigation. It is neither permissible nor desirable for the Court to conduct a roving enquiry into the reliability, sufficiency or admissibility of evidence as though adjudicating upon guilt after trial. The defence sought to be projected by the accused, however plausible it may appear, ordinarily falls outside the limited scrutiny permissible in proceedings for quashing.

7. The enquiry at this stage remains confined to a prima facie assessment so as to whether the materials placed on record disclose the existence

of factual foundations constituting the alleged offences and whether continuation of the prosecution would amount to abuse of the process of law. So long as the allegations disclose arguable issues requiring evidentiary examination, the criminal process ought not to be interdicted at its inception. Examined in the aforesaid backdrop, the principal contention advanced by the Petitioners relates to absence of sanction under Section 19 of the Prevention of Corruption Act, 1988. However, the said contention does not impress this Court. The materials on record reveal that though sanction for prosecution was initially sought from the competent authority, by that time the Petitioner No.1 had already retired from service on 31.03.2018.

8. The settled position of law consistently reiterated by the Hon'ble Supreme Court in ***K. Veeraswami v. Union of India*****(supra)** and subsequently in ***CBI v. B.A. Srinivasan (supra)*** is that the protection contemplated under Section 19 of the P.C. Act is available only so long as the accused continues to hold the office of a public servant. Once the public servant demits office or retires from service, the embargo created under Section 19 ceases to operate and no sanction is required for the Court to take cognizance of the offence. Therefore, merely because the competent authority declined sanction after the retirement of the Petitioner No.1, the same would not ipso facto invalidate the prosecution or denude the Court of its jurisdiction to take cognizance.

9. The submission is that the investigating agency deliberately prolonged the investigation till the retirement of the Petitioner No.1 also does not persuade this Court. Delay in investigation, by itself, cannot be elevated into a ground for quashing unless such delay demonstrably causes irreversible prejudice or renders the prosecution inherently malicious. In the present case, the search was conducted pursuant to a judicially issued search warrant and substantial materials relating to movable and immovable assets were collected during investigation. Whether the delay has affected the defence of the accused or whether the prosecution has acted with oblique motive are matters essentially falling within the realm of evidence and factual adjudication, which cannot appropriately be examined in a proceeding invoking inherent jurisdiction.

10. The further contention regarding the legality of the "check period" adopted by the investigating agency equally does not merit acceptance at this stage. The determination of disproportionate assets is not a matter of rigid mathematical formula but a process involving detailed scrutiny of income, expenditure, acquisitions, liabilities and financial conduct during the relevant period. Whether the entire service period could have been taken into consideration, whether certain incomes have been omitted, or whether particular assets have been wrongly evaluated are all issues intrinsically factual in nature requiring evidentiary examination during trial. Such disputed questions cannot be conclusively adjudicated in a petition seeking quashing of cognizance. The inherent jurisdiction of this Court cannot be converted into an appellate forum for re-calculation of assets and liabilities on the basis of rival financial narratives placed by the parties.

11. The plea of the Petitioners that the properties in question exclusively belong to Petitioner No.2 and that she possesses an independent source of income as a Class-C contractor also cannot furnish a ground for quashing the proceeding at the threshold. The prosecution case specifically alleges that substantial assets were acquired and held in the name of Petitioner No.2 during the relevant period and that she actively facilitated concealment and possession of assets allegedly disproportionate to the known lawful sources of income of Petitioner No.1. Whether such assets genuinely emanated from the independent business income of Petitioner No.2 or whether they were acquired as a conduit for parking illicit wealth are questions that necessarily require appreciation of oral and documentary evidence during trial. At this preliminary stage, the Court cannot conclusively record findings on the genuineness or sufficiency of the income claimed by the Petitioners.

12. This Court is also unable to accept the submission that filing of income tax returns by the Petitioners completely demolishes the prosecution case. Mere disclosure of assets or transactions before the Income Tax Authorities does not automatically legalize the source from which such assets were acquired. Income tax proceedings primarily concern fiscal disclosure and assessment, whereas prosecution under the Prevention of Corruption Act involves examination of the lawful source and proportionality of assets vis-à-vis the known income of the public servant. The two operate in distinct fields. The prosecution is therefore entitled to independently scrutinize whether the assets reflected in the income tax returns were genuinely traceable to lawful income.

13. It is trite that at the stage of cognizance, the Court is only required to ascertain whether the materials collected during investigation disclose sufficient grounds for proceeding against the accused. The order taking cognizance need not contain elaborate evaluation of evidence as if the court is set to pronounce a judgment of conviction or acquittal. In the present case, the learned Special Judge Vigilance, upon perusal of the charge-sheet and accompanying materials, found prima facie grounds to proceed against the Petitioners for offences under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act and Section 109 IPC. This Court does not find the said satisfaction to be either arbitrary, perverse or wholly unsupported by the materials on record.

14. The jurisdiction under Section 482 Cr.P.C./ Section 528 B.N.S.S. is intended to prevent miscarriage of justice and not to stifle legitimate prosecution at its inception. Corruption-related offences, particularly those involving allegations of disproportionate assets, constitute serious economic offences affecting public confidence in institutional integrity and governance. Judicial interference at a premature stage, without full-fledged examination of evidence, must therefore remain an exception rather than the rule. The defence sought to be projected by the Petitioners raises disputed factual issues requiring trial and cannot be adjudicated conclusively in exercise of inherent jurisdiction.

V. CONCLUSION:

15. In view of the discussions made hereinabove and upon an considering the rival submissions advanced by the parties, this Court is of the considered opinion that the impugned order dated 03.06.2022 passed by the learned Special Judge Vigilance, Cuttack in T.R. No.05 of 2022 does not suffer from any such patent illegality, manifest perversityso as to warrant interference in exercise of the extraordinary inherent jurisdiction under Section 482 Cr.P.C./ Section 528 B.N.S.S.

16. The grounds taken by the Petitioners primarily pertain to the correctness of the investigation, determination of the check period, evaluation of assets and liabilities, admissibility of the income claimed by Petitioner No.2, and the probative value of the materials collected during investigation. These are essentially matters of evidentiary appreciation which cannot be conclusively adjudicated at the threshold without a full-fledged trial.

17. At this stage, the Court is not expected to meticulously weigh the defence of the accused against the prosecution materials as though conducting a mini trial. The jurisdiction under Section 482 Cr.P.C. is intended to prevent abuse of process and secure the ends of justice, not to prematurely terminate a prosecution which otherwise discloses a prima facie commission of cognizable offences.

18. This Court further finds that the materials collected during investigation, as reflected in the charge-sheet, cannot be said to be so absurd, inherently improbable or wholly devoid of substance as to justify quashing of the proceeding at its inception. The allegations relate to accumulation of assets allegedly disproportionate to the known sources of income of a public servant and the alleged facilitation thereof through acquisition and possession of assets in the name of close family members. Such allegations, by their very nature, require a comprehensive evidentiary examination during trial, where both the prosecution and the defence shall have adequate opportunity to establish their respective stands through admissible evidence.

19. Corruption offences involving disproportionate assets constitute serious economic offences having a direct bearing on public confidence in the integrity of public administration. The Court, while exercising inherent jurisdiction, must therefore remain conscious that judicial review at the pre-trial stage cannot extend into an exhaustive evaluation of disputed factual issues or sufficiency of evidence, unless the prosecution is ex facie malicious or legally untenable. No such exceptional circumstance is discernible in the present case.

20. Accordingly, this Court finds no justifiable reason to interdict the criminal proceeding at this preliminary stage. The CRLMC, being devoid of merit, accordingly stands dismissed.

21. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated 22nd May, 2026/