



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.466 of 2025

Khileswari Dandsena

....

Petitioner

Mr. B.K. Behera, Advocate

-Versus-

State of Odisha & another

....

Opposite Parties

Mr. P.K. Sahoo, ASC

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

11.08.2025

Order No.

01. 1. Heard Mr. Behera, learned counsel for the petitioner and Mr. Sahoo, learned ASC for the State opposite party No.1.
2. Notice to opposite party No.2 is dispensed with as the matter is disposed of at the stage of admission.
3. Instant revision is filed by the petitioner assailing the impugned order dated 13th May, 2025 passed in connection with C.T. Case No.86 of 2023 as at Annexure-6 by the learned S.D.J.M., Nuapada arising out of Dharamabandha P.S. Case No.15 of 2023 dated 29th January, 2023 registered under Sections 341, 323, and 506 I.P.C. directing commitment of the case in terms of Section 323 Cr.P.C. including an offence under Section 306 I.P.C. on the grounds stated therein.



4. Mr. Behera, learned counsel for the petitioner submits that the petitioner was chargesheeted for the alleged offences and not under Section 306 I.P.C. but during and in course of trial, upon receiving evidence, the learned Court below in exercise of powers under Section 323 Cr.P.C. passed the impugned order i.e. Annexure-6 for commitment of the case to the Sessions Court. The submission is that no such chargesheet under Section 306 IPC was filed against the petitioner and hence, at the midst of trial, the learned Court below could not have added the offence under Section 306 I.P.C. by the impugned order i.e. Annexure-6 and hence, the same is liable to be interfered with.

5. Mr. Sahoo, learned ASC for the State opposite party No.1, on the other hand, justifies the decision of the learned Court below as per Annexure-6 with the submission that it has the power to do so and direct commitment in terms of Section 323 Cr.P.C. when the evidence revealed an offence under Section 306 I.P.C. to have been committed by the petitioner.

6. On a reading of Section 323 Cr. P.C, it is stipulated therein that if on an inquiry into an offence or the trial before a Magistrate, it appears to him at any stage of proceeding before delivery of judgment that the case is one ought to be tried by the Court of Sessions, he shall commit it to that Court under the provisions contained hereinbefore and such other provisions applicable to the commitment.

7. It is made to reveal from the record that the trial is in progress. The prosecution has examined five of the witnesses,



depositions of whom are at Annexure-5 series for the Court's perusal. In fact, considering the evidence received from such witnesses, the learned Court below deemed it proper to add an offence under Section 306 I.P.C. and hence, to commit the case to the Court of Sessions. The submission of Mr. Behera, learned counsel for the petitioner is that learned court below has taken cognizance of the said offence during and in course of the trial upon receiving the evidence from the prosecution even when the petitioner was not chargesheeted for the same. On a proper reading of the F.I.R., the details of the circumstances leading to the deceased having consumed poison stand described therein but no such chargesheet under Section 306 I.P.C. was filed. A copy of the chargesheet dated 23rd July, 2023 is at Annexure-3 and the same is perused. In fact, the petitioner was chargesheeted for the offences punishable under Sections 341, 323 and 506 I.P.C. only. But, having regard to the fact that there is evidence received during trial and it revealed that the deceased, namely, the husband of the informant to have committed suicide, on a bare reading of Annexure-5 series, the learned Court below considered it proper to take cognizance of the offence and to commit the case to the Sessions Court vide Annexure-6. The Court is of the humble view that a Magistrate has the power to deal with such a contingency in view of Section 323 Cr.P.C. and in case, a higher offence like Section 306 I.P.C. is prima facie made out considering the material evidence received during the inquiry or trial, it shall commit the case to the Court of Sessions. As evidence received from the prosecution revealed the



informant's husband, namely, deceased to have committed suicide by consuming poison and inadvertently, an offence under Section 306 I.P.C. was not included in the chargesheet i.e. Annexure-2, the Court reaches at a conclusion that the learned Court below did not err by including such offence and to commit the case to the Court of Sessions as the same is permissible in view of Section 323 Cr.P.C. In other words, the Court is of the view that the impugned order dated 13th May, 2025 at Annexure-6 of learned Court below does not suffer from any legal infirmity.

8. Accordingly, it is ordered.

9. In the result, the revision stands dismissed, however, with a direction that in the event, the record is received by the concerned Sessions Court, it shall issue notice to the petitioner and to consider his release on bail without remand for the offence under Section 306 I.P.C. to have been included in view of the impugned order i.e. Annexure-6 and thereafter, to proceed to deal with the trial and ensure disposal of the case in accordance with law.

10. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

Balaram
Signature Not Verified
Digitally Signed
Signed by: BALARAM BEHERA
Designation: Personal Assistant
Reason: Authentication
Location: OHC, CUTTACK
Date: 13-Aug-2025 19:29:22

