



IN THE HIGH COURT OF ORISSA AT CUTTACK

A.F.R.

CRLMC No.3331 of 2024

(A petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.)

Pravanjan Beura & Ors.

....

Petitioner (s)

-versus-

State of Odisha & Anr.

....

Opposite Party (s)

Advocates appeared in the case through Hybrid Mode:

For Petitioner (s)

:

Mr. Manoranjan Mishra, Adv.

For Opposite Party (s)

:

*Mr. Tej Kumar, ASC
Mr. Samvit Mohanty, Adv.*

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-23.02.2026

DATE OF JUDGMENT:-27.02.2026

Dr. Sanjeeb K Panigrahi, J.

1. The present petition has been filed by the Petitioners challenging the legality and propriety of the judgment dated 22.07.2024 passed by the learned Sessions Judge, Jagatsinghpur, in Criminal Revision No.02 of 2023.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:
 - i. An F.I.R. was registered at Jagatsinghpur P.S. vide P.S. Case No. 13 of 2019 on the basis of a written report lodged by Shrabani Priyadarshini Malla @ Beura before Jagatsinghpur



P.S. on 14.01.2019. In the said report, it was alleged that she had married Pravanjan Beura on 28.06.2017 and that, at the time of marriage, her father had given cash of Rs. 3,00,000/-, gold and silver ornaments, and other household articles as per the demand of her husband and in-laws. It was further alleged that subsequently her husband and father-in-law demanded an additional sum of Rs. 2,00,000/- as dowry from her parental family, which could not be fulfilled, and that she was subjected to mental and physical cruelty on that account. It was also alleged that, by use of force, her signature was obtained on a blank paper on the pretext of transfer, and that during her stay in the matrimonial home, she conceived due to a physical relationship with her husband, but her husband and in-laws compelled her to terminate the pregnancy. Upon her refusal, it was alleged that she was subjected to further torture and was seriously assaulted on 29.09.2017 at about 2.00 PM. The informant further alleged that she was driven out of the matrimonial house after being abused in filthy language and threatened with dire consequences, including threat to her life. It was also alleged that her wearing apparels were removed and, upon protest, she was assaulted by fist blows and kicks, and thereafter her husband left her at her father's house at Jagatsinghpur. She was allegedly rescued by her father and returned with the hope that the behaviour of the accused persons would change. However, as the situation did



not improve, she was constrained to lodge the F.I.R. before the IIC, Jagatsinghpur P.S., which was registered as P.S. Case No. 13 of 2019 for commission of offences under Sections 498-A, 294, 323, 506 read with Section 34 of the I.P.C. and Section 4 of the Dowry Prohibition Act.

- ii. Upon completion of investigation, the concerned Police submitted a charge sheet on 19.06.2019 under Sections 498-A, 294, 323, 506 read with Section 34 of the I.P.C. and Section 4 of the Dowry Prohibition Act, along with the case diary and other connected papers, against the present Petitioners.
- iii. The learned S.D.J.M., Jagatsinghpur, on perusal of the materials on record and being satisfied that a prima facie case was made out against the Petitioners, took cognizance of the aforesaid offences by order dated 16.08.2019. Accordingly, summons were issued to the Petitioners by order dated 16.08.2019, fixing 30.09.2019 as the date for their appearance.
- iv. While the matter stood thus, the learned A.P.P. filed a petition under Sections 211 and 216 of the Cr.P.C. on 21.11.2022, praying for addition of charge under Section 406 of the I.P.C., which had allegedly been omitted by the Investigating Officer at the time of submission of the charge sheet. In the said petition, it was stated that although the ingredients constituting an offence under Section 406 of the I.P.C. were available from the materials on record, the charge sheet had been submitted without incorporating the said offence.



- v. The Petitioners filed their objection to the said petition contending that the Investigating Officer had rightly submitted the charge sheet after completion of investigation and that all presentation articles, as per the list, had already been seized. It was further stated that at the time of departure, the informant had taken all her gold ornaments with her. The Petitioners also asserted that there was no demand for dowry from their side at the time of marriage and, therefore, the question of return of cash amounting to Rs. 3,00,000/-, as alleged by the prosecution, does not arise. The other allegations made in the petition were also denied, and they prayed for rejection of the petition seeking addition of charge under Section 406 of the I.P.C.
- vi. However, the learned Trial Court, by order dated 25.01.2023, allowed the said petition and directed addition of charge under Section 406 of the I.P.C.
- vii. Being aggrieved by the said order dated 25.01.2023, the Petitioners preferred Criminal Revision No. 2 of 2023 before the learned Sessions Judge, Jagatsinghpur, contending that the Investigating Officer had rightly submitted the charge sheet after due investigation without incorporating Section 406 of the I.P.C., and that the petition for addition of charge had been filed at a belated stage only to delay the proceeding. It was further contended that the learned Trial Court had erred in



allowing addition of charge under Section 406 of the I.P.C., which relates to criminal breach of trust.

- viii. However, the learned Sessions Judge, Jagatsinghpur, by order dated 22.07.2024, dismissed the said revision petition holding that no illegality or perversity had been committed by the learned Trial Court in arriving at such conclusion and the plea raised by the accused/Petitioners could be advanced during trial to dispute the charge. Accordingly, the said Criminal Revision was dismissed on contest.
- ix. Being aggrieved, the Petitioners have approached this Court challenging the judgment dated 22.07.2024 passed in Criminal Revision No. 2 of 2023.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

- 3. Learned counsel for the Petitioners made the following submissions in support of his contentions:
 - i. It was submitted that the Petitioners are innocent and the Opposite Parties had filed the petition for addition of charge only to harass and humiliate them.
 - ii. It was contended that although the informant, at the time of lodging the F.I.R., mentioned certain alleged dowry articles, she failed to produce any material to establish the authenticity of the alleged payment or entrustment of such property by her parents. No document has been produced to show entrustment of any property to the accused persons, nor is there any material indicating acknowledgment or receipt thereof by them.



- iii. It was submitted that Section 406 of the I.P.C., which relates to criminal breach of trust, necessarily requires proof of entrustment of property and subsequent dishonest misappropriation, conversion, use, or disposal of such property in violation of any legal direction, authority or contract.
- iv. According to the Petitioners, in the present case, there is no material on record to establish entrustment or misappropriation by the accused persons and, therefore, the essential ingredients to attract an offence under Section 406 of the I.P.C. are totally absent. In such circumstances, framing of charge under the said provision does not arise and the order directing addition of charge is liable to be set aside.
- v. It was further submitted that the dispute, if any, is essentially of a civil nature and has been given the colour of a criminal proceeding. Criminal proceedings ought not to be used as instruments of harassment. Though the jurisdiction under Section 482 of the Cr.P.C. is to be exercised sparingly, it may be invoked to prevent abuse of the process of Court or to secure the ends of justice.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

- 4. Per contra, the Learned counsel for the Opposite Parties made the following submissions in support of his contentions:
 - i. During investigation of the case, the list of dowry articles was seized by the Investigating Officer, which indicated that cash of Rs. 3,00,000/- and certain gold ornaments had been given to the accused persons at the time of marriage. It was further submitted that when



the dowry articles were seized, neither the said gold ornaments nor the cash were recovered from the accused persons or handed over in zima to the complainant. It was contended that this indicates entrustment of the said articles and failure on the part of the accused persons to account for the same. Accordingly, it was submitted that prima facie an offence under Section 406 of the I.P.C. is made out and that the learned Trial Court has rightly concluded that there was sufficient material to frame charge under the said provision.

- ii. It was further submitted that the learned Sessions Judge, Jagatsinghpur, in Criminal Revision No. 02 of 2023, has rightly appreciated the materials on record and has not committed any illegality or perversity in affirming the order of the learned Trial Court.

IV. FINDINGS OF THE SESSIONS JUDGE, JAGATSINGHPUR:

5. The learned Sessions Judge, Jagatsinghpur, in Criminal Revision No. 02 of 2023, considered the challenge to the order dated 25.01.2023 passed by the learned Trial Court allowing addition of charge under Section 406 of the I.P.C. in exercise of powers under Sections 211 and 216 of the Cr.P.C.
6. It was noted that though Section 406 of the I.P.C. had not been included at the stage of registration of the F.I.R. or taking cognizance, the Court is not bound by the opinion of the Investigating Officer and is competent to frame a charge if, at the stage of consideration of charge, prima facie materials disclose commission of such offence.
7. The learned Sessions Judge observed that at the stage of framing of charge, the Court is only required to examine whether there exists ground for



presuming that the accused has committed the offence and that detailed appreciation of evidence is not warranted.

8. On perusal of the seizure list and materials on record, the Revisional Court observed that 188 articles had been seized, but cash of Rs. 3,00,000/- and specified gold ornaments allegedly given at the time of marriage were not recovered or returned. It was held that whether actual entrustment took place is a matter to be decided during trial upon examination of witnesses and production of evidence. However, at the stage of framing of charge, there were sufficient materials to raise a prima facie case of entrustment and possible misappropriation.
9. Accordingly, the learned Sessions Judge held that no illegality or perversity had been committed by the Trial Court in directing addition of charge under Section 406 of the I.P.C., and dismissed the Criminal Revision on contest.

V. COURT'S REASONING AND ANALYSIS

10. Heard learned counsel for the parties and perused the materials available on record.
11. The primary issue for consideration before this Court is whether the learned Sessions Judge committed any illegality or perversity in affirming the order of the learned Trial Court directing addition of charge under Section 406 of the I.P.C., so as to warrant interference in exercise of inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



12. At the outset, this Court deems it appropriate to refer to the scope of inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
13. Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 preserves the inherent powers of the High Court to make such orders as may be necessary to prevent abuse of the process of any Court or otherwise to secure the ends of justice. However, it is well settled that such power does not confer unlimited or arbitrary jurisdiction. The inherent power is extraordinary in nature and is to be exercised with circumspection and only in cases where failure to interfere would result in miscarriage of justice.
14. It is equally settled that at the stage of framing of charge, the Court is not required to undertake a meticulous appreciation of evidence. The test to be applied is whether, on the basis of the materials available, there exists a prima facie case for presuming that the accused has committed the offence alleged. Even strong suspicion founded upon the materials on record is sufficient at this stage.
15. In this regard, the Supreme Court in *Sajjan Kumar v. CBI*¹ observed as hereinunder:

21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The

¹ (2010) 9 SCC 368.



test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave



suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.

22. It is trite that the Court is empowered to alter or add to any charge at any time before judgment is pronounced. Section 216 of the Code of Criminal Procedure, 1973, corresponding to Section 239 of the Bharatiya Nagarik Suraksha Sanhita, 2023, confers such power upon the Court. Any such alteration or addition must be read and explained to the accused, and the Court is required to ensure that the same does not cause prejudice to the accused in his defence or to the prosecution in the conduct of the case.

23. The Supreme Court in *Anant Prakash Sinha v. State of Haryana*² while dealing with a case where an application was filed for framing an additional charge under Section 406 of the I.P.C. in a prosecution under Sections 498-A and 323 of the I.P.C., observed that the Court can change or alter the charge if there is any defect or omission and that the test is whether such alteration is founded on the material available on record. It was observed as follows:

“18. From the aforesaid, it is graphic that the court can change or alter the charge if there is defect or something is left out. The test is, it must be founded on the material available on record. It can be on the basis of the complaint or the FIR or accompanying documents or the material brought on record during the course of trial. It can also be done at any time before pronouncement of judgment. It is not necessary to advert to each and every circumstance. Suffice it to say, if the court has not framed a charge despite the material on record, it has the jurisdiction to add a charge. Similarly, it has the authority to alter the charge. The principle that has to be

²(2016) 6 SCC 105.



kept in mind is that the charge so framed by the Magistrate is in accord with the materials produced before him or if subsequent evidence comes on record. It is not to be understood that unless evidence has been let in, charges already framed cannot be altered, for that is not the purport of Section 216 CrPC."

24. In the present case, the allegations in the F.I.R. disclose that at the time of marriage, cash of Rs.3,00,000/- and certain gold ornaments were allegedly given by the informant's family to the accused persons. It is further alleged that the said cash and ornaments were not returned to the informant. The seizure list reflects recovery of certain other articles. However, the aforesaid cash amount and specified gold ornaments were neither recovered from the accused persons nor returned. Whether such cash and ornaments were in fact entrusted to the accused persons and whether there was any dishonest misappropriation thereof are matters to be determined upon appreciation of evidence during trial.

25. Further, the contention of the Petitioners is that there is absence of proof of entrustment which cannot be examined in depth at the stage of framing of charge. At this stage, the Court is only required to ascertain whether the materials on record raise a prima facie inference attracting the ingredients of Section 406 of the I.P.C. The existence or otherwise of entrustment and subsequent dishonest misappropriation are essentially questions of fact which must be adjudicated upon evidence.

26. The learned Trial Court, while allowing the petition under Sections 211 and 216 of the Cr.P.C., exercised its statutory power being satisfied that the materials disclosed commission of such offence.



27. The learned Revisional Court, upon a comprehensive examination of the materials available on record, recorded a finding that the learned Trial Court had acted within the bounds of its jurisdiction while exercising power to add a charge under Section 406 of the I.P.C. The Revisional Court took note of the allegations contained in the F.I.R. and the contents of the seizure list and was of the view that the same disclose prima facie material suggestive of entrustment and non-return of the alleged articles, thereby attracting the ingredients of Section 406 of the I.P.C. It was further observed that the veracity of such allegations is a matter to be tested upon evidence during trial and not at the threshold stage of framing of charge. On such analysis, the Revisional Court concluded that the order of the Trial Court did not suffer from any illegality or perversity warranting interference.

28. This Court, upon independent consideration of the materials on record, does not find that the impugned order suffers from any patent illegality or perversity so as to warrant interference under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

29. The addition of charge does not amount to a final determination of guilt but merely enables the Trial Court to examine the matter comprehensively upon evidence being led, subject to the right of the accused persons to raise all permissible defences in accordance with law.

VI. CONCLUSION:

30. In view of the foregoing, this Court finds no merit in the present CRLMC. The judgment dated 22.07.2024 passed by the learned Sessions Judge,



Jagatsinghpur, in Criminal Revision No.02 of 2023 does not warrant interference.

31. Accordingly, the present petition stands **dismissed**.

32. It is made clear that the observations made herein are confined to the adjudication of the present petition and shall not influence the Trial Court while deciding the matter on merits.

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

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 27th February, 2026*