



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3644 of 2025

Jitendra Kumar Nayak *Petitioner(s)*
Mr. Avijit Patnaik, Adv.
-versus-
State of Odisha & Anr. *Opposite Party(s)*
Mr. Tej Kumar, ASC
Mr. Dusmanta Kumar Biswal, Adv.
for O.P.2

CORAM:

HON'BLE DR.JUSTICE SANJEEB K PANIGRAHI

Order No.

01.

ORDER

04.05.2026

1. This matter is taken up through hybrid arrangement.
2. In the present CRLMC, the Petitioner against whom the allegation of cheating the Opposite Party No.2 is made, has prayed for quashing the entire criminal proceeding initiated against him vide C.T. Case No.2511 of 2018 arising out of F.I.R No.235 of 2018 registered at Khandagiri Police Station pending before the Court of learned J.M.F.C (Cog.V), Bhubaneswar.
3. Heard.
4. At the outset, learned counsel for the Petitioner and learned counsel for the Opposite Party No.2/informant in one tone submit that both the parties are ready for amicable settlement of the dispute involved herein. They also submit that due to some misunderstanding

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the above noted F.I.R was lodged against the Petitioner. A joint affidavit has been filed to that effect. They, accordingly, pray for allowing the prayer made in this CRLMC.

5. The relevant portions of the said joint affidavit filed by both the parties are extracted hereunder:-

“xxx

xxx

xxx

1. *That, the Deponent No.1 and Deponent No.2 were previously very closely related having good relation with each other. While the aforesaid well situation was continuing between both the parties, the Deponent No.1 had purchased a 4 wheeler (Car) by availing loan from a Nationalized Bank i.e. State Bank of India, S.C.B Medical College and Hospital Branch, Cuttack, wherein the Deponent No.2 is a guarantor to the said loan, By passing of time certain mismatching of mind and misunderstanding occurred between the parties for which in an incident the Deponent No.2 lodged FIR before the IIC, Khandagiri Police Station, Bhubaneswar against the Deponent No.1 and accordingly, G.R. Case No.2511 of 2018 is pending before the learned Court of J.M.F.C-V, Bhubaneswar. IN the meantime the relation between the parties has broken down and they are living separately and peacefully in their respective house since long.*
2. *That, after few years the Deponent No.2 by virtue of independent, conscious as well as personal decision, felt it necessary to forget all the ill feelings & decided not to proceed with aforesaid G.R. Case which is pending before*

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the Learned Court of J.M.F.C-V, Bhubaneswar against the Deponent No.1 for the benefit of both the parties.

- 3. That both the parties undertake to end all their past disputes, misunderstanding and unpleasant happenings and experiences.*
- 4. That, from today onwards, both the parties undertake not to give any derogatory and defamatory statement either in oral or written against each other in any manner whatsoever.*
- 5. That, both the parties shall not send any message in any manner to each other or to each other's relations and furthermore, both the parties shall not try to make any sort of contract with each other.*
- 6. That, both the parties shall remain away from each other without any communications.*
- 7. That, both the parties undertake that they will never make any threatening messages or calls to each other.*
- 8. That, the Deponent No.-1 shall make all efforts to repay the loan outstanding amount against the vehicle bearing No.OD-05-AK-2700 to the concerned Bank without demanding anything from the Deponent NO.2. The Deponent No.1 is solely responsible to repay the loan outstanding amount to the Bank and the Deponent No.2 shall not be liable for the repayment of the loan outstanding dues of the vehicle in any manner, as well as the Deponent No.1 shall take all necessary steps to pledge a new guarantor in place of Deponent NO.2 against the said loan.*
- 9. That both the Deponents hereby state that all disputes between them have been settled amicably and they have no further claims or grievances against each other.*

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10. That, the Deponent No.2 has no objection it the FIR NO.235 of 2018 dated 07.06.2018 before the Khandagiri Police Station, Charge Sheet NO.235 of 2018 and corresponding criminal proceeding vide C.T. No.2511 of 2018 pending before the learned Court of J.M.F.C-V, Bhubaneswar, will be quashed by this Hon'ble Court in the interest of justice.

11. That, this joint affidavit is being filed voluntarily by both the Deponents without any fear, force, coercion or undue influence.

xxx

xxx

xxx"

6. This Court has considered the joint affidavit filed by both parties and is conscious of the settled legal position that the inherent jurisdiction of the High Court under Section 482 Cr.P.C. is distinct from the power of compounding under Section 320 Cr.P.C., and may be invoked to secure the ends of justice or to prevent abuse of the process of Court. At the same time, such power is not to be exercised mechanically merely because the parties have arrived at a settlement; the Court is required to examine the nature and gravity of the allegations, the real genesis of the dispute, the stage of the proceeding, and whether, in view of the stand now taken by the victim, the possibility of conviction has become remote and continuation of the prosecution would amount to futility or oppression.

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7. In the present case, Opposite Party No.2 has joined the Petitioner in filing a sworn affidavit and has



categorically stated that she does not wish to proceed further with the criminal case and that the Petitioner is not involved in the alleged occurrence. Thus, the Court is not proceeding on the basis of a bare compromise alone, but on the subsequent stand of the complainant herself, which substantially erodes the factual substratum of the prosecution. Having regard to the materials on record, the stage of the case, and the unequivocal position taken by the complainant, this Court is satisfied that the possibility of a successful conviction is remote and bleak, and that continuation of the impugned proceeding would serve no useful purpose but would instead amount to abuse of the process of law.

8. In light of the aforesaid, and applying the same to the facts of the present case, this Court is of the considered view that continuance of the impugned criminal proceeding would amount to an abuse of the process of Court and would not subserve the ends of justice.
9. In fact, in the case of *Shiji @ Pappu v. Radhika*¹ the Supreme Court has held that even where an offence is non-compoundable, quashing may still be justified, if there is no realistic chance of conviction and

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continuance is an empty formality. The Court held as follows:

“It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other.”

10. Similar view was taken by the Supreme Court in the case of **Manoj Sharma v. State**² wherein the Court held as follows:

“It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to

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(2008) 16 SCC 1



*quash the prosecution under Section 482
Cr.P.C. on the other."*

11. Tested against the aforesaid principles and the facts of the present case, this Court finds that allowing the prosecution to continue would be futile and would amount to an abuse of the process of law.
12. In view of the foregoing discussion, the application is allowed. Accordingly, the F.I.R. in Khandagiri P.S. Case No.235 of 2018 dated 07.06.2018 is, hereby, quashed. Consequently, the entire criminal proceeding arising therefrom, i.e., C.T. No.2511 of 2018 pending before the Court of learned J.M.F.C (Cog.V), Bhubaneswar also stands quashed.
13. This CRLMC is, accordingly, disposed of.

(Dr. Sanjeeb K Panigrahi)
Judge

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