A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3815 of 2024
Along with
CRLMC No.1021 of 2024

(Petitions under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for quashing of criminal proceeding in connection with Balasore Vigilance P.S. Case No.4 of 2011 corresponding to T.R. Case No.33 of 2013 pending in the court of the learned Special Judge Vigilance, Balasore)

Bijay Laxmi Nayak .... ***Petitioner(s)***
(in CRLMC No.3815 of 2024)
Anil Kumar Tomar
(In CRLMC No.1021 of 2024)

-versus-

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

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Meru Sagar Samantaray, Adv.*
Mr. Debasis Tripathy, Adv.

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

CORAM:
DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-23.03.2026
DATE OF JUDGMENT:-17.04.2026

Dr. Sanjeeb K Panigrahi, J.

1. Since the issues raised in both the above-mentioned CRLMCs involve common questions of fact and law, those were heard analogously and are being disposed of by this common judgment. For the sake of convenience and effective adjudication, CRLMC No.3815 of 2024 is treated as the lead case.

2. The Petitioner, in CRLMC No.3815 of 2024, has made a prayer to quash the initiation of criminal proceeding against her in connection with Balasore Vigilance P.S. Case No.4 of 2011 corresponding to T.R. Case No.33 of 2013 pending in the court of the learned Special Judge Vigilance, Balasore.

I. FACTUAL MATRIX OF THE CASE:

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

(i) One Nagendra Prasad Nayak, OPS, DSP, while serving as SDPO Bonai in Rourkela Police District, was subjected to a simultaneous Vigilance search and seizure operation at six locations on 28.12.2010, on the strength of search warrants issued by the learned C.J.M., Balasore vide Misc. Case No.13 of 2010. Consequent thereupon, Sri B.C. Sethi, DSP, Vigilance, Jajpur Unit lodged an FIR in Balasore Vigilance Police Station on 04.02.2011, which was registered as Balasore Vigilance P.S. Case No.4 of 2011 under Sections 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 and Sections 109/420/120-B of the IPC. The FIR was registered against four persons, namely, Sri Nagendra Prasad Nayak (A-1), Ajit Patnaik, late Gobinda Chandra Nayak (father of A-1), and Prasanta Kumar Nayak (brother of A-1). A chargesheet (No.41 of 2012) was subsequently submitted on 29.09.2012 under Sections 13(2) read with 13(1)(e) of the P.C. Act, 1988 and Sections 109/420/467/468/409/120-B of the IPC, which culminated in T.R. Case No.33 of 2013 in the court of the learned Special Judge (Vigilance), Balasore.

(ii) The investigation revealed that Sri Nagendra Prasad Nayak (husband of the Petitioner in CRLMC No.3815 of 2024) had accumulated assets disproportionate to his known sources of income during the check period from 02.04.1982 to 28.12.2010. The assets taken into consideration by the Vigilance officials comprised both movable and immovable properties. The immovable property was estimated at Rs.39,26,000/- and the movable property at Rs.1,24,96,467/-, totalling Rs.1,53,66,467/-. The disproportionate assets were calculated at 698%.

(iii) The Petitioner in CRLMC No.3815 of 2024, Smt. Bijay Laxmi Nayak (arrayed as A-5), is the wife of A-1. She was not named in the FIR. As per the chargesheet, on the date of search she was present at her paternal house at Keonjhar and was found in possession of gold and silver ornaments on her person valued at approximately Rs.1,17,600/-, a plot of land admeasuring 0.08 decimals at Baniapat, Keonjhar with a building valued at approximately Rs.15,02,609/-, cash of Rs.4,900/-, a bank balance of Rs.5,356/- in SBI Bargarh Branch, and insurance premiums of Rs.4,49,800/- in three Bajaj Allianz Life Insurance policies. The total value of assets as disclosed in the chargesheet and the objection filed by the Vigilance amounts to approximately Rs.19,93,654/-. The only source of income attributed to her during the check period was house rent amounting to Rs.2,88,000/-.

(iv) The Petitioner in CRLMC No.1021 of 2024, Sri Anil Kumar Tomar (arrayed as A-7), is an acquaintance of the family of A-1. He was neither named in the FIR nor were his premises searched, nor was any seizure effected from him. The chargesheet alleges that he was holding four trucks in benami for A-1, on the ground that the Petitioner in CRLMC No.3815 of 2024 (A-5) was found using a postpaid mobile phone registered in the name of A-7, whose bills were being paid by A-7 regularly.

(v) Being aggrieved, the Petitioners have approached this Court by way of the present CRLMCs. The Petitioner in CRLMC No.3815 of 2024 seeks quashing of the chargesheet and the criminal proceeding. The Petitioner in CRLMC No.1021 of 2024 seeks quashing of the chargesheet as well as the order dated 08.11.2023 rejecting the discharge application passed in T.R. Case No.33 of 2013 pending before the learned Special Judge (Vigilance), Balasore.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

4. The learned counsel for the Petitioners earnestly advanced twofold submissions in support of their prayer for quashing: first, on the facts on record; and second, on the legal propositions, for which reliance was placed on several judicial precedents and authoritative pronouncements of the Supreme Court:

I. Submissions on Facts:

(i) It was submitted that this is a case of false implication driven by the personal animosity and grudge of the Investigating Officer

(IO) against A-1. The animosity dates back to an incident in 2006 wherein A-1 had chargesheeted the wife of the IO in a motor accident case (C.S. No.19 dated 14.01.2009, Bolangir Sadar P.S. Case No.267 of 2006). This ground was specifically raised before the Hon'ble Supreme Court in SLP (Crl.) No.9122 of 2011 and was not rebutted by the Opposite Party. A-1 had also represented to the Director, Vigilance vide letters dated 03.11.2011 and 30.11.2011, requesting a change of IO and expressing apprehension of prejudice and unfair investigation. These representations were not heeded.

(ii) With respect to A-5 (the Petitioner in CRLMC No.3815 of 2024), it was submitted that she was not named in the FIR. The ornaments found on her person constitute her Stridhan, and the cash of Rs.4,900/- was her domestic cash. She does not own any immovable property. The plot mentioned at Col.12(43) of the chargesheet, admeasuring 0.08 decimals, was purchased in 2001 for Rs.1,00,000/- and sold for the same consideration to her sister-in-law, Smt. Pramila Malik, in 2002, on which Smt. Pramila Malik has constructed her dwelling house and continues to own it to date.

(iii) With respect to A-7 (the Petitioner in CRLMC No.1021 of 2024), it was submitted that he was neither named in the FIR nor were his premises searched, nor was any seizure made from him. A-7 is a Transporter and owns several trucks. The four trucks mentioned in the chargesheet under the column 'Assets' at Sl. Nos.21 to 24 (bearing R.C. Nos. OR-17D-6608, OR-17E-3608, OR-17A-6808, and OR-17A-6708) were 100% financed vehicles being operated under Hire-Purchase agreements with HDFC Bank and TATA Finance. The IO neither obtained information from the RTO, Bargarh regarding the registration details of these vehicles nor seized the RC copies, and the same do not figure among the 186 documents relied upon by the prosecution in the chargesheet under Col.12. The IO also did not array the RTO, Bargarh or his staff as prosecution witnesses among the 86 witnesses listed under Col.15, although RTOs of Chandikhol, Keonjhar, and Bhadrak were made prosecution witnesses for other vehicles.

(iv) It was further submitted that the chargesheet was signed on 29.09.2012 but was submitted before the jurisdictional Court only on 24.06.2013, with no explanation for the delay of approximately nine months. Additionally, the IO was found guilty of a fake trap operation and the Odisha Human Rights Commission imposed a fine of Rs.5,00,000/- upon him. He was unceremoniously repatriated by the Vigilance Directorate and all his pensionary benefits have been withheld.

II. Submissions on Legal Propositions:

5. It was contended that the investigation was tainted by the personal bias and mala fide of the IO, and that the right to a free and fair investigation is a facet of the fundamental right guaranteed under Article 21 of the Constitution. Reliance was placed on ***State of Bihar &***

Anr. v. P.P. Sharma, IAS & Anr.[1], wherein the Apex Court observed that the investigating officer is the arm of the law and plays a pivotal role in the dispensation of criminal justice; that it is never his business to fabricate evidence to connect a suspect with the commission of crime; and that an investigating officer who is not sensitive to constitutional mandates may be prone to trample upon the personal liberty of a person when actuated by mala fides.

6. Further reliance was placed on ***Babubhai v. State of Gujarat & Ors.***[2], wherein the Apex Court reiterated that the investigation into a criminal offence must be free from objectionable features or infirmities which may legitimately lead to a grievance on the part of the accused that the investigation was unfair and carried out with an ulterior motive; and on ***Manu Sharma v. State (NCT of Delhi)***[3], where it was held that the criminal justice administration system places human rights and dignity at a high pedestal, and the investigation should be judicious, fair, transparent, and expeditious to ensure compliance with the basic rule of law.

7. It was submitted that the chargesheet is liable to be quashed on the ground of incompleteness and lack of evidence. The allegations against A-7 are not supported by any listed document in the chargesheet. Had the IO investigated the RTO, Bargarh and seized the Registration Certificates of the listed vehicles, it would have been established that the vehicles were Hire-Purchase vehicles and were 100% financed. Similarly, though the IO alleged that A-5 was the owner of the land and

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[1] (1992) Supp (1) SCC 222
[2] (2010) 12 SCC 254
[3] (2010) 6 SCC 1

building mentioned in the chargesheet and had clandestine business links with A-7, the chargesheet discloses no document in the list of 186 documents to support these allegations. Rather, it discloses the sale of the land in 2002 vide a Registered Sale Deed executed by A-5 in favour of Smt. Pramila Malik. Reliance was placed on ***Sharif Ahmed v. State of U.P.***[4], wherein the Apex Court held that the nature and standard of evidence elucidated in a chargesheet should prima facie show that an offence is established if the material and evidence is proven, and the chargesheet is complete when it refers to material and evidence sufficient to take cognizance and for the trial; and on ***K. Veeraswami v. Union of India***[5], where it was held that the report under Section 173(2) purports to be an opinion of the Investigating Officer that he has been able to procure sufficient material for the trial of the accused.

8. It was urged that the learned Special Judge (Vigilance), while taking cognizance and while considering the application for discharge, did not apply his judicial mind to the chargesheet and the documents submitted by the IO. There is no documentary evidence or any named prosecution witness to substantiate the allegations regarding the vehicles in the name of A-7 or his alleged business relations with A-5. Reliance was placed on ***Pushpendra Kumar Sinha v. State of Jharkhand***[6], wherein it was held that before framing of charge, the court must apply its judicial mind to the material placed on record and must be satisfied that the commission of offence by the accused was possible; and on ***Sharif Ahmed*** (supra), holding that under Sections 190

[4] (2024) 14 SCC 122
[5] (1991) 3 SCC 655
[6] (2023) 11 SCC 636

and 204 CrPC, the Magistrate can take cognizance only upon forming an independent prima facie opinion.

9. It was contended that the IO, by selectively omitting relevant evidence and witnesses, has deprived the Petitioners of the benefit of Section 227 CrPC, which contemplates discharge on the basis of "the record of the case and the documents submitted therewith." The selective omission of RTO records and RC copies has rendered the Petitioners unable to canvass their innocence from the chargesheet materials alone. Reliance was placed on ***Kanchan Kumar v. State of Bihar***[7], wherein the Apex Court held that what is required is not a roving enquiry but a "simple and necessary enquiry" for proper adjudication of a discharge application, and that the court does not act as a mere post office but must sift the material before it; on ***State of Gujarat v. Dilipsinh Kishorsinh Rao***[8], holding that if the accused is able to demonstrate from the chargesheet material at the stage of framing charge something that might drastically affect the sustainability of the case, it is unfair to ignore such material; and on ***Ram Prakash Chadha v. State of U.P.***[9], where the Apex Court emphasized that the strong suspicion necessary to frame a charge should be based on material brought on record by the prosecution and not on supposition, suspicion, and conjectures.

10. It was submitted that the invocation of Sections 109 and 120-B IPC against the Petitioners is wholly unsustainable in the absence of any material demonstrating a meeting of minds, a prior conspiracy, or any overt act of intentional aid in the accumulation of disproportionate

[7] (2022) 9 SCC 577
[8] (2023) 17 SCC 688
[9] (2024) 10 SCC 651

assets. Mere relationship with the principal accused or mere use of a mobile phone cannot, by itself, constitute abetment or criminal conspiracy. Reliance was placed on ***Ram Prakash Chadha*** (supra), wherein the Supreme Court observed that apart from using the expression "criminal conspiracy", if there is an absolute absence of anything in the final report or witness statements suggesting that the accused conspired with others, the charge cannot be sustained; and on ***P. Nallammal v. State rep. by Inspector of Police***[10], on the essential ingredients of abetment under the P.C. Act.

11. It was contended that A-5 neither holds a public office nor a Government post. The proceedings initiated against a private person who does not hold any public office are liable to be dropped, notwithstanding her proximity to her husband against whom allegations of acquisition of disproportionate wealth have been made. Reliance was placed on ***Akhilesh Yadav v. Vishwanath Chaturvedi & Others***[11], wherein the Supreme Court, upon review, directed that the investigation launched against Smt. Dimple Yadav on the issue of amassing wealth beyond her known sources of income was liable to be dropped, as she had neither held any public office nor a government post and was essentially a private person.

12. It was urged that any asset under a Hire-Purchase agreement cannot be considered the asset of the user until the Hire-Purchase agreement is completed with full payment and credit clearance. The four trucks alleged to be in the name of A-7 were 100% financed Hire-Purchase

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[10] (1999) 6 SCC 559.
[11] (2013) 2 SCC 1

vehicles. Their ownership, in law, remained with the financing institutions and not with A-7. Consequently, these vehicles could not have been clubbed as assets in the chargesheet, and A-7 could not have been legally arrayed as an accused on this basis. Reliance was placed on ***Magma Fincorp Ltd. v. Rajesh Kumar Tiwari***[12], wherein the Apex Court held that the financier continues to remain the owner of a vehicle covered by a hire-purchase agreement until all hire instalments are paid and the hirer exercises the option to purchase; and that the hirer merely holds the goods in trust and/or as a bailee.

13. It was submitted that there has been an inordinate delay of over 14 years since the registration of the FIR in 2011, and over 12 years since the filing of the chargesheet in 2012, with the charge yet to be framed. Letting the trial continue against the Petitioners would be a futile exercise, wasting the valuable time of the Court, and would inevitably end in acquittal. This amounts to an abuse of the process of law.

14. It was contended that the present proceeding is manifestly vexatious, loaded with mala fide, and intended to settle personal scores with A-1. Reliance was placed on the illustrative categories enumerated in ***State of Haryana v. Bhajan Lal***[13], particularly Categories (3), (5), and (7), being cases where the uncontroverted allegations and evidence collected do not disclose the commission of any offence; where the allegations are so absurd that no prudent person can reach a conclusion that there is sufficient ground for proceeding; and where a criminal

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[12] (2020) 10 SCC 399
[13] 1992 Supp (1) SCC 335.

proceeding is manifestly attended with mala fide and instituted with an ulterior motive.

15. Reliance was also placed on ***Iqbal v. State of U.P.***[14], holding that when an accused invokes Section 482 CrPC on the ground that proceedings are manifestly frivolous or vexatious or instituted with an ulterior motive, the court owes a duty to look into the FIR with care and a little more closely, and to consider the overall circumstances leading to the initiation of the case as well as materials collected during investigation; on ***Achin Gupta v. State of Haryana***[15], wherein it was held that once the investigation is over and chargesheet is filed, the FIR pales into insignificance, and there is nothing in Section 482 CrPC which restricts its exercise to the stage of the FIR alone, and that the third category in ***R.P. Kapur v. State of Punjab***[16] covers cases where the allegations constitute an offence but there is no legal evidence adduced or the evidence manifestly fails to prove the charge; and on ***Kailashben Mahendrabhai Patel & Ors. v. State of Maharashtra***[17] and ***Maneesha Yadav & Ors. v. State of U.P.***[18], both reiterating that there is no prohibition against quashing of criminal proceedings even after the chargesheet has been filed, and that it would be a travesty of justice to hold that proceedings can be interfered with at the stage of FIR but not when they have materialized into a chargesheet.

16. It was further submitted that A-1, the principal accused public servant, has been exonerated of all charges in the departmental proceedings by

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[14] (2023) 8 SCC 734
[15] (2025) 3 SCC 756
[16] AIR 1960 SC 866
[17] 2024 SCC OnLine SC 2621
[18] 2024 SCC OnLine SC 643

order dated 29.09.2021 of the Hon'ble Governor of Odisha. Consequently, the very foundation of the prosecution against the Petitioners, who are alleged to have abetted A-1, stands eroded.

17. In view of the above facts, circumstances, and legal propositions, it was contended that this Court may allow the present CRLMCs and quash the criminal proceedings against the Petitioners. Unless these applications are allowed, the Petitioners shall continue to sustain irreparable loss and injury.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY/ VIGILANCE DEPARTMENT:

18. *Per contra*, the learned counsel for the Opposite Party/ Vigilance Department by filing of written note of submissions earnestly made the following submission in support of his submissions:

i. The petitions are liable to be dismissed at the threshold because, once investigation has culminated in a charge-sheet and cognizance has already been taken, the Court ought not to lightly interdict the prosecution unless the case falls within the narrow parameters governing quashing jurisdiction. ***Amit Kapoor v. Ramesh Chander***[19], holds that quashing of charge is an exception and the Court should be slow to stifle a legitimate prosecution at the initial stage.

ii. At the stage of discharge or framing of charge, the Court is only required to see whether the materials produced by the prosecution, taken at face value, disclose a prima facie case. It is

[19] (2012) 9 SCC 460

not required to examine whether the evidence is sufficient for conviction. That is the settled ratio in ***State of M.P. v. Mohanlal Soni***[20], ***State through CBI v. Dr. Anup Kumar Srivastava***[21], and ***State by Karnataka Lokayukta Police v. M.R. Hiremath***[22].

iii. The Court, while considering discharge or quashing, cannot assume the role of an appellate court and start weighing contradictions, inconsistencies, or probable defences. That exercise belongs to trial. This position stands reaffirmed in State rep. by ***Dy. Superintendent of Police, Vigilance and Anti-Corruption, Tamil Nadu v. J. Doraiswamy***[23], and ***CBI v. Aryan Singh***[24].

iv. A petition under Section 482 CrPC cannot be converted into a mini-trial. The High Court is not expected to assess whether the prosecution will ultimately succeed; it need only see whether sufficient material exists to proceed. That is the clear principle in ***CBI v. Aryan Singh***[25].

v. It is equally well settled that the accused cannot rely upon defence material, disputed factual explanations, or extraneous documents in order to seek discharge at the threshold. The Court must confine itself to the material produced by the prosecution. This is the ratio of ***M.E. Shivalingamurthy v. CBI***[26].

vi. A non-public servant can validly be prosecuted and tried for abetment or conspiracy in relation to an offence under Section

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[20] (2000) 6 SCC 338
[21] (2017) 15 SCC 560
[22] (2019) 7 SCC 515
[23] (2019) 4 SCC 149
[24] (2023) 18 SCC 399
[25] (2023) 18 SCC 399
[26] (2020) 2 SCC 768

13(1)(e) of the Prevention of Corruption Act. This proposition was settled in ***P. Nallammal v. State rep. by Inspector of Police***[27].

vii. The mere fact that a person is the spouse or family member of the principal accused does not immunize such person from prosecution where the prosecution case is that assets were held, concealed, or facilitated in that person's name. In ***P. Shanthi Pugazhenthi*** (supra), the Supreme Court reiterated that even a non-public servant who allows disproportionate assets to be parked in her name and thereby assists the principal accused can be prosecuted for abetment under Section 109 IPC read with the Prevention of Corruption Act.

viii. Therefore, the plea that A-5 is a private person and not a public servant is not, by itself, a ground for quashing. So long as the prosecution alleges that she knowingly held or facilitated possession of assets on behalf of the principal accused, the prosecution is maintainable in law.

ix. The plea founded on exoneration of the principal accused in departmental proceedings is also untenable. The law is settled that exoneration in departmental proceedings does not ipso facto result in quashing of criminal prosecution, since the two proceedings operate in different fields, before different fora, and on different standards of proof. This is the ratio in ***State (NCT of Delhi) v. Ajay Kumar Tyagi***[28].

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[27] (1999) 6 SCC 559
[28] (2012) 9 SCC 685

x. In view of the above settled position, disputed pleas regarding title over property, genuineness of ownership, benami holding, source of funds, nature of vehicle financing, or the evidentiary worth of the alleged links between the accused persons are all matters for trial and cannot be adjudicated conclusively in a petition for quashing.

IV. COURT'S REASONING AND ANALYSIS:

19. Heard Learned Counsel for parties and perused the documents placed before this Court.

20. Though the present petitions are under Section 528 of the BNSS, the principles governing the exercise of such inherent jurisdiction remain substantially analogous to those developed under Section 482 CrPC. Accordingly, the settled limitations on the exercise of inherent power under Section 482 CrPC may safely guide the adjudication of the present petitions as well. This Court is, therefore, conscious that such jurisdiction, particularly after submission of charge-sheet and rejection of an application for discharge, is to be exercised sparingly and with circumspection. The High Court cannot undertake a meticulous appreciation of evidence or convert the present CRLMCs into a mini trial. It is equally settled, however, that once the investigation is over and the charge-sheet is filed, the FIR pales into insignificance and the Court may examine the materials forwarded with the charge-sheet to ascertain whether the continuance of the criminal proceeding would amount to abuse of the process of Court. The Court is therefore required to see whether, on the uncontroverted prosecution materials themselves, the basic ingredients of the alleged offences are disclosed against the present petitioners.

21. In ***Achin Gupta*** (supra) it has been held that there is nothing in the words of Section 482 CrPC restricting the power of the High Court only to the FIR stage, and that it would be a "travesty of justice" to hold that a proceeding can be interdicted at the FIR stage but not after it has culminated in a charge-sheet.

22. Similarly, in ***Sharif Ahmed*** (supra), the Court further explained that the police report must reflect a thorough investigation and must show with sufficient particularity and clarity the contravention of law alleged. The relevant excerpts are produced below:

> *"The final report has to be prepared with these aspects in mind and should show with sufficient particularity and clarity, the contravention of the law which is alleged. When the report complies with the said requirements, the court concerned should apply its mind whether or not to take cognisance and also proceed by issuing summons to the accused. While doing so, the court will take into account the statement of witnesses recorded under Section 161 of the Code and the documents placed on record by the investigating officer."*

23. Thus, while this Court cannot weigh defense evidence, it is under a duty to see whether the prosecution has at all laid the foundational material necessary to justify the petitioners being sent to trial.

24. The case against petitioner A-5 is required to be tested on the legal footing that she is admittedly not a public servant. Therefore, her prosecution can survive only if the materials forwarded with the charge-sheet prima facie disclose abetment or conspiracy in relation to the alleged accumulation of disproportionate assets by A-1.

25. In ***P. Nallammal*** (supra), the Supreme Court made it clear that a non-public servant can indeed be prosecuted where he or she knowingly assists the public servant by allowing tainted wealth to be parked or concealed in that person's name. But the same authority also shows that there must be material indicative of conscious facilitation, intentional aid, or active concealment. Mere relationship with the main accused is not, by itself, enough. The relevant excerpts are produced below:

> *"Four persons including the public servant decide to raise a bulk amount through bribery and the remaining persons prompt the public servant to keep such money in their names. If this is a proved position then all the said persons are guilty of abetment through conspiracy. The last illustration is this: If a public servant tells A, a close friend of his, that he has acquired considerable wealth through bribery but he cannot keep them as he has no known source of income to account, he requests A to keep the said wealth in A's name, and A obliges the public servant in doing so. If it is a proved position A is guilty of abetment falling under the "Thirdly" clause of Section 107 of the Penal Code."*

26. Applying the aforesaid standard, this Court finds that the prosecution case against A-5, as presently placed, does not travel beyond suspicion founded on relationship. She was not named in the FIR. The assets attributed to her are personal ornaments found on her person, small cash, a bank balance, insurance premiums, and one immovable property. The petitioners have specifically urged that the very prosecution papers disclose that the said land had been sold by A-5 by a registered sale deed in the year 2002 in favour of Smt. Pramila Malik. If that document is indeed part of the charge-sheet materials, then the continued attribution of the land and the house standing thereon as an asset of A-5 is not a matter of disputed defence alone. It goes to the internal consistency of the prosecution case itself. A court taking cognizance and a court considering discharge could not have ignored so basic a contradiction if it emerges from the prosecution record.

27. Apart from the above, no specific prosecution material has been pointed out to this Court showing that A-5 knowingly permitted A-1 to park ill-gotten wealth in her name, or that she entered into any agreement with A-1 to conceal such wealth, or that she intentionally aided the acquisition of assets disproportionate to his known sources of income. The charge-sheet, as summarised, does not disclose any witness or document demonstrating instigation, prior concert, or intentional aid on her part. At the highest, it discloses a marital relationship and possession of certain personal effects and financial instruments. That is insufficient to satisfy the ingredients of Sections 109 and 120-B of the IPC. Suspicion, however strong, cannot substitute the minimum legal foundation required to prosecute a private individual for abetment in a disproportionate assets case.

28. The position of A-7 stands on an even weaker footing. He too was not named in the FIR. No search was conducted in his premises and no seizure was made from him. The prosecution seeks to connect him to the alleged offence on the assertion that A-5 was using a postpaid mobile connection registered in his name and that, on that basis, four trucks were being held by him benami for A-1. The petitioners have specifically contended that the charge-sheet does not enclose the registration certificates of the said trucks, does not incorporate records from the Regional Transport Officer at Bargarh, does not place the hire purchase or finance records on file, and does not cite the concerned RTO as a prosecution witness. If that is so, the allegation against A-7 is unsupported by the most elementary class of documentary material that ought to have formed part of the investigation.

29. The vigilance's objection that such pleas must all be left to trial cannot be accepted in the peculiar facts of the present case. This Court is not adjudicating the rival title over the trucks, nor is it accepting the defense version on affidavit. The narrower question is whether the prosecution papers themselves contain the foundational material necessary even to put A-7 to trial.

30. In this regard, in ***Dilipsinh Kishorsinh Rao*** (supra), the Supreme Court has held that where the accused is able to demonstrate from the charge-sheet material something that might drastically affect the sustainability of the case, it is unfair to ignore it. The relevant excerpts are produced below:

> *"If the accused is able to demonstrate from the chargesheet material at the stage of framing the charge which might drastically affect the very sustainability of the case, it is unfair to suggest that such material should not be considered or ignored by the court at that stage. The main intention of granting a chance to the accused of making submissions as envisaged under Section 227 of the Cr.P.C. is to assist the court to determine whether it is required to proceed to conduct the trial. Nothing in the Code limits the ambit of such hearing, to oral hearing and oral arguments only and therefore, the trial court can consider the material produced by the accused before the I.O."*

31. Here, the apparent absence of primary ownership and finance records in respect of the four trucks goes to the root of the allegation and leaves the accusation against A-7 resting on conjecture rather than material.

32. As regards the plea of mala fide and bias of the Investigating Officer, this Court is of the view that it is unnecessary to return a final finding thereon. The law declared in ***Iqbal*** (supra) is that when the allegation is of a vexatious or motivated prosecution, the Court owes a duty to look into the record with care and a little more closely. The Court held as follows:

> *"Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal 14 vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between*

> *the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."*

33. That closer scrutiny has been undertaken in the present matter. Even if the allegation of personal vendetta is kept aside, the outcome does not change because the prosecution materials, as noticed above, do not themselves furnish the minimum factual substratum necessary against either A-5 or A-7.

34. This Court also notes the contention regarding exoneration of A-1 in the departmental proceeding. It is true that exoneration in a departmental proceeding does not ipso facto result in termination of the criminal prosecution, the two proceedings operating in distinct fields. Yet this only means that such exoneration cannot by itself conclude the present CRLMCs. It does not relieve the prosecution of its obligation to disclose a prima facie case against the petitioners on the basis of the charge-sheet material. On that independent touchstone, the prosecution against A-5 and A-7 remains unsustainable.

35. In the ultimate analysis, this is not a case where the prosecution case against the petitioners is broadly made out and the Court is being invited to assess its probable success. Rather, it is a case where the allegations, together with the evidence stated to have been collected, do not disclose the essential ingredients of the offences alleged against these petitioners. So far as A-5 is concerned, the materials do not prima facie show conscious concealment or intentional aid. So far as A-7 is concerned, the allegation of benami holding of trucks is unsupported by the basic documents which alone could have given that allegation legal substance. The case, insofar as these petitioners are concerned, therefore falls squarely within the ***Bhajan Lal*** (supra) framework, at least under Categories 3 and 5. The uncontroverted allegations and the material collected do not disclose commission of any offence by them, and the inferential leap sought to be made is so inherently tenuous that no prudent person can regard it as sufficient ground for proceeding.

36. The further circumstance that the vigilance case has remained pending for well over a decade and, as submitted, even charge has not yet been framed, reinforces the need to prevent unnecessary continuation of a prosecution that lacks foundational support against these two peripheral accused. To compel them to undergo a criminal trial in such circumstances would not subserve the ends of justice. It would amount to abuse of process.

37. This Court cannot remain unmoved by the manner in which the present prosecution, insofar as these two petitioners are concerned, has been allowed to linger for years together without meaningful progress. The FIR is of the year 2011, the charge-sheet is of 2012, and yet the petitioners have continued to remain under the shadow of a serious vigilance prosecution for well over a decade. Criminal law cannot be permitted to hover endlessly over individuals, especially where the very material relied upon against them is found to be fragile and lacking in foundational support. At some point, prolonged pendency ceases to be a matter of mere delay and assumes the character of manifest unfairness.

38. The prejudice caused by such delay is neither narrow nor merely procedural. A vigilance case, by its very nature, carries grave social consequences. To be continuously arrayed as an accused in a corruption-linked prosecution for years together entails reputational damage, mental distress, social embarrassment, disruption of normal life, and persistent uncertainty in personal and professional affairs. Even if the law ultimately corrects the course, the erosion of dignity and peace suffered in the interregnum is rarely capable of full restoration. The process of prosecution, when stretched over years without sufficient legal substratum, thus becomes punitive in its own right.

39. It is in this context that the constitutional requirement of fairness in criminal process assumes significance. The Supreme Court in ***Kartar Singh v. State of Punjab***[29] recognized that the right to speedy trial is an integral facet of Article 21 and extends to all stages of the criminal proceeding. The principle is not confined to cases of incarceration alone; it is equally a protection against oppressive and unending prosecution. The Court held as under:

> *"85. The right to a speedy trial is not only an important safeguard to prevent undue and oppressive incarceration, to minimise anxiety and concern accompanying the accusation*

[29] (1994) 3 SCC 569

and to limit the possibility of impairing the ability of an accused to defend himself but also there is a societal interest in providing a speedy trial. This right has been actuated in the recent past and the courts have laid down a series of decisions opening up new vistas of fundamental rights. In fact, lot of cases are coming before the courts for quashing of proceedings on the ground of inordinate and undue delay stating that the invocation of this right even need not await formal indictment or charge.

86. The concept of speedy trial is read into Article 21 as an essential part of the fundamental right to life and liberty guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed by arrest and consequent incarceration and continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result from impermissible and avoidable delay from the time of the commission of the offence till it consummates into a finality, can be averted. In this context, it may be noted that the constitutional Page 16 guarantee of speedy trial is properly reflected in Section 309 of the Code of Criminal Procedure."

40. In the facts of the present case, where the prosecution against these petitioners is itself found wanting in foundational material, the long continuation of the proceeding only compounds the injustice.

41. This Court is therefore constrained to observe that the Vigilance Department must exercise a far greater degree of care and restraint before arraying relatives, acquaintances, or other non-public persons as accused in a disproportionate-assets case. The seriousness of anti-corruption law does not license looseness in accusation. Mere relationship with the principal accused, incidental association, or inferential suspicion cannot substitute for primary material showing conscious facilitation, intentional aid, concealment, or legally sustainable complicity. A specialized agency is expected to proceed with greater precision and discipline, not with broader assumptions.

42. This Court considers it appropriate to observe that, in prosecutions of the present nature, certain minimum safeguards ought to inform the approach of the investigating agency: first, attribution of ownership, benami holding, or financial linkage should rest on primary documentary material actually collected during investigation; second, a clear distinction must be maintained between suspicion arising from proximity and material disclosing legal culpability; third, relevant neutral or exculpatory material gathered in the course of investigation ought not to be omitted from the record placed before the Court; fourth, there must be meaningful supervisory scrutiny before submission of charge-sheet, particularly where non-public servants are sought to be implicated; and fifth, stagnant prosecutions should not be mechanically allowed to continue where the factual foundation against particular accused remains conspicuously weak. These are not exhaustive directions, but minimum norms of fairness expected of a responsible vigilance prosecution.

43. Tested on the above parameters, the present case discloses a clear want of prosecutorial restraint insofar as these two petitioners are concerned. This Court is compelled to deprecate the manner in which they were drawn into, and kept entangled within, a serious criminal prosecution for years despite glaring deficiencies in the material relied upon against them. In matters of corruption, the authority of the prosecution depends on the quality and fairness of the investigation, not on how widely the net is cast. When peripheral individuals are proceeded against without adequate foundational material, the prosecution ceases to advance public justice and instead risks undermining confidence in the integrity of the process itself.

V. CONCLUSION:

44. In view of the foregoing analysis, this Court holds that the continuation of the criminal proceeding against the petitioner is unsustainable in law and amounts to abuse of the process of Court.

45. Accordingly, CRLMC No. 3815 of 2024 and CRLMC No. 1021 of 2024 deserve to be allowed. The criminal proceeding in connection with Balasore Vigilance P.S. Case No. 4 of 2011 corresponding to T.R. Case No. 33 of 2013 pending in the court of the learned Special Judge Vigilance, Balasore, shall stand quashed insofar as petitioner A-5 and petitioner A-7 are concerned. Consequently, the order dated 08.11.2023 rejecting the discharge application of A-7 also stands set aside. It is made clear that this Court has not expressed any opinion on the merits of the case against the remaining accused persons, and the trial shall proceed against them in accordance with law.

46. Accordingly, both the CRLMCs are disposed of being allowed.

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

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 17th April, 2026/