IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3847 of 2025

An application under Section 528 of the BNSS, 2023.

Sri Golak Prasad Mohapatra . ***Petitioner***
Mr. Subir Palit, Senior Advocate

-versus-

State of Orissa (Vigilance) . ***Opposite Party***
Mr. Niranjan Maharana, Addl. Standing Counsel for Vigilance

CORAM:

THE HON'BLE MR. JUSTICE A.K. MOHAPATRA

Date of hearing : 16.12.2025 | Date of Judgment : 25.02.2026

A.K. Mohapatra, J. :

1. The present CRLMC application has been filed by the Petitioner, who happens to be the president of Orissa Consumer's Cooperative Federation Ltd., with a prayer to quash the FIR bearing Vigilance Case No.30 dated 02.06.2010, under Annexure-1, the Charge-sheet No.05 dated 30.03.2013 under Annexure-2 and the entire criminal proceeding arising out of T.R. No.42 of 2013 which corresponds to Bhubaneswar

Vigilance P.S. Case No.30, involving commission of offences under sections 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1998 ("PC Act") and sections 420, 468, 471, 120-B of the IPC, pending in the court of the learned 3rd Additional Sessions Judges, Bhubaneswar.

FACTUAL MATRIX OF THE CASE

2. The factual matrix of the present case, as gathered from the FIR and Final Form, at Annexures-1 and 2 respectively, and bereft of unnecessary details, is that earlier on 02.06.2010 Bhubaneswar Vigilance FIR No.30 was lodged pursuant to a report filed by the Superintendent of Police, Vigilance Cell Unit Office, Bhubaneswar, alleging irregularities in distribution of coal by the 'Orissa Consumer's Cooperative Federation Ltd' (hereinafter 'OCCF') during the effective period of 2008-2009 and 2009-2010. It was alleged that during the aforementioned period OCCF has sold coal earmarked for deserving MSMEs, i.e. small consumers in non-core sectors whose annual consumption is less than 4200MT, as per the Ministry of Coal, Government of India, Resolution No.23011/4/2007 dated 18.10.2007, at a higher rate in the open market, while failing to distribute the profits amongst deserving MSMEs.

3. Upon inquiry, it was further revealed that Shri Akhil Kumar Jena, the MD of OCCF, vide letter dated 10.07.2008, had requested the Director of Industries, Odisha, to appoint the OCCF as the 'State

Nominated Agency' (hereinafter 'SNA') for distribution of coal to MSMEs in the state. Consequently, OCCF was appointed as the SNA for receiving 60,000MT coal from M/s Mahanadi Coal Fields Ltd. (hereinafter 'MCL') and a Fuel Supply Agreement ('FSA') was executed with MCL by the BM, OCCF on 05.09.2009. It was alleged that prior to the issuance of the Government order and execution of the FSA, a decision was taken by the President of OCCF on 12.08.2008 to engage a Marketing Agent for receipt and distribution of coal. A notice inviting willingness was issued on 14.08.2008, and three applications were purportedly received, whereafter, one Debendra Kumar Panda of M/s Vinayak Minerals was appointed as Marketing Agent vide order dated 22.08.2008 bearing Order No.979 issued by the MD, OCCF and an agreement was executed with him by the GM, OCCF on 09.09.2008 and 08.05.2009 for the period 2008-2009 and 2009-2010 respectively to manage the daily affairs of the OCCF and receive 3% margin out of the 5% margin due to OCCF.

4. The FIR further reveals that quotations from two out of the three applicants desirous of being appointed as Marketing Agent, were found to be fake. Also, during 2008-09, OCCF reportedly received 40,900 MT of coal from MCL and claimed distribution of the same to 16 MSME units. During 2009-10, OCCF reportedly received 52,664 MT of coal and claimed distribution to 32 MSME units. On this basis, OCCF was entitled to margin profits of Rs.16,26,751/- for 2008-09 and Rs. 39,64,258/- for 2009-10. However, payments of Rs.8,04,009/- for 2008-09 and Rs.17,20,572/- up to February 2010 were made to the Marketing Agent out of the margin profit due to OCCF. Additionally, it was also discovered by the Vigilance Department that 5 out of 16 MSMEs, for the period 2008-09, and 7 out of 32 MSMEs, for the period 2009-10, to whom linkage coal was distributed, were found to be fake or non-existent.

5. The FIR also alleges that given the e-auction rate of coal was Rs.1400/- per MT and the average market price was Rs.2500/- MT during the relevant period, and linkage coal at a base price of Rs.850/- was supplied to OCCF by MCL, the Marketing Agent, in connivance with the OCCF and DIC officials, has indulged in selling linkage coal at an higher rate in the open market and derived illegal pecuniary benefit therefrom which has also resulted in a loss to the Government Exchequer to the tune of around Rs.25,24,581/-. Lastly, the FIR also reveals that Debendra Kumar Panda of M/s. Vinayak Minerals was fraudulently appointed as Marketing Agent in contravention of Government guidelines and by fabricating relevant records. Resultantly, an FIR was lodged, a Final Form filed alleging commission of the above-mentioned offences, cognizance taken of the said offences and, at present, the trial in the case is underway. Being aggrieved by the prolonged continuation of the trial, and on several other grounds, the Petitioner has approached this court by filing the present CRLMC application, invoking its inherent powers and praying for the relief as prayed for herein.

CONTENTIONS OF THE PETITIONER

6. Heard Mr. Subir Palit, learned Senior Advocate appearing for the Petitioner. At the very outset, the learned senior counsel for the Petitioner, assailing the allegations in the FIR and the Final Form as vexatious, contended that even if the allegations in the FIR and the charge sheet are taken at their face value, they do not disclose the commission of any offence by the Petitioner and do not establish any direct role, act, or omission attributable to the Petitioner which would attract the offences alleged under the PC Act and the IPC. He further contended that despite there being no prima facie case against the Petitioner, he has been made to suffer the agony of ever-looming prosecution for the last decade and half.

7. The learned senior counsel for the Petitioner at this point submitted that the initial FIR was lodged in the year 2010 but the final form was filed in 2013 only and no explanation has been provided for such delay. Thereafter, the trial in the matter commenced and is still continuing even after 15 years of registration of the FIR. Additionally, referring to the copies of the order dated 10.09.2024 to 20.06.2025, under Annexure-3 series and the depositions of witnesses, under Annexure-4 series, learned senior counsel for the Petitioner contended that out of the total 38 prosecution witnesses only 13 witness have been examined so far. Moreover, as is evident from the aforesaid order sheets, the prosecution witnesses have repeatedly failed to appear before the trial court on dates fixed for recording of evidence. Assailing such conduct of the prosecution witnesses and the conduct of the prosecution at large, the learned senior counsel for the Petitioner contended that such inordinate delay in conclusion of the trial is solely attributable to the Prosecution and has resulted in undue harassment of the Petitioner since the last decade and half. It was further submitted that such long delay in conclusion of trial also clearly violates the fundamental right of personal liberty and speed trial granted to the Petitioner under Article 21 of the Constitution of India. The learned senior counsel has also condemned such deliberate attempt of the prosecution to prolong the trial, so as to harass the Petitioner, and submitted that such delay in conclusion of the trial amounts to a gross abuse of the process of law. While making such submissions, the learned senior counsel has clarified that the Petitioner has, at all times, fully cooperated with the prosecution and the trial proceedings and no default can be attributed to the Petitioner.

8. Next, assailing the conduct of the Investigating Officer in the present case, learned senior counsel for the Petitioner contended that the Investigating Officer has submitted the charge sheet by deliberately suppressing material facts. According to the learned senior counsel for the Petitioner, the Committee of Management of OCCF comprises of twenty-one members, and the Petitioner, as the elected President, could not have taken any unilateral decision. It was submitted that all decisions of the Committee of Management are required to be taken by majority resolution and are thereafter implemented by the executive functionaries. Therefore, the question of attributing culpability to the Petitioner alone does not arise in the present case. It was also urged that the learned Special Judge has also failed to apply judicial mind while taking cognizance and framing charge against the Petitioner.

9. Furthermore, the learned senior counsel for the Petitioner has stated that the investigation and the consequent criminal proceedings initiated against the Petitioner are vitiated by mala fides and political vendetta. It was submitted that the Vigilance raids conducted at the Head Office of OCCF, at Bhubaneswar, on 19.05.2010 and 20.05.2010 were politically motivated, as the Petitioner was, at the relevant time, the State

Secretary-cum-Spokesperson of a national political party and had publicly raised serious concerns and protests against the State Government with regard to displacement of people in connection with the POSCO project. It was argued that, on account of such political stance, the Petitioner was targeted and the Vigilance machinery was utilised to harass him. In view of the above, it was submitted that the initiation and continuation of the criminal proceedings are manifestly actuated by personal and political vendetta and have been undertaken without any credible or cogent evidence to substantiate the allegations which would warrant interference by this Court in exercise of its inherent jurisdiction.

10. Once again, referring to the governance structure of the OCCF, the learned senior counsel for the Petitioner contended that the OCCF is governed by its registered Bye-laws as well as the provisions of the Odisha Co-operative Societies Act, 1962 ('Societies Act, 1962'). It was submitted that under Sections 27 and 28 of the said Act, the final authority of the Society vests in the Annual General Body, while the Committee of Management is entrusted with the administration and management of the Society. Therefore, policy decisions relating to the functioning of the Society are required to be taken collectively by the said Committee. As such, learned senior counsel for the Petitioner urged that the Petitioner, as the elected President, could not have taken any unilateral decision, and that all decisions were taken by majority resolution of the Committee of Management and thereafter implemented by the executive functionaries. In such circumstances, it was contended that the Petitioner cannot be individually held liable for the acts allegedly undertaken by the Society.

11. It was further submitted that there is no credible evidence to suggest that the Petitioner, in his individual capacity, extended any undue favour or acted with bias, as is evident from the statutory audit reports. The learned senior counsel for the Petitioner further contended that OCCF does not directly engage in coal business operations and that the responsibility for handling coal distribution lies with the Managing Director and the respective Branch Managers, who act in accordance with the decisions of the Committee of Management. It was submitted that, under the bye-laws of OCCF, the Managing Director is vested with authority to oversee office administration and business operations. It was also pointed out that the Director of Industries, Odisha, has not, at any stage made, any allegation against the Petitioner. The learned senior counsel for the Petitioner further contended that the Vigilance enquiry itself revealed that the management of OCCF had no direct involvement in the coal business or in the maintenance of records relating thereto, and that the Petitioner did not act individually or directly in any manner in relation to the coal business of OCCF.

12. Learned senior counsel for the Petitioner, drawing attention of this Court to the copy of the Audit Report, under Annexure-5 to the present CRLMC application, submitted that the statutory Audit Reports prepared by the Auditor-General of Co-operative Societies, Odisha, who is the competent authority under the Societies Act to determine profit or loss of co-operative bodies, clearly indicates that OCCF earned profits of approximately Rs.3 crores during the relevant period. As per the learned senior counsel for the Petitioner, the above fact fundamentally contradicts the Vigilance allegation of financial loss, of around Rs.30 lakhs, and reinforces the fact that no pecuniary loss or misconduct can be attributable to the Petitioner. As such, the learned senior counsel for the Petitioner submitted that the findings of the Vigilance authorities is clearly misleading and erroneous, and, appears to have been made with the sole intent to falsely implicate the Petitioner in the present criminal proceeding. To further corroborate his stance, the learned senior counsel for the Petitioner placed reliance on the principles laid down by the Hon'ble Supreme Court in its decision in ***Bhajanlal's case***.

13. In such view of the matter, learned senior counsel for the Petitioner contended that there are no clear and cogent evidence on the record to show that a criminal case of whatsoever nature is made out against the Petitioner. Additionally, since the case has been pending for more than a decade, continuation of the proceedings would result in unnecessary wastage of valuable judicial time and would further the prejudice already caused to the Petitioner. Accordingly, learned senior counsel for the Petitioner submitted that the present case falls squarely within the parameters for exercise of inherent jurisdiction of this Court under Section 528 BNSS, and as such, warrants interference by this Court.

CONTENTIONS OF THE OPPOSITE PARTY-VIGILANCE

14. Heard Mr. Niranjan Moharana, learned counsel for the Vigilance Department. Perused the Counter Affidavit filed by the Opposite Party-Vigilance Department. It is the contention of the learned counsel for the Opposite Party-Vigilance Department that in the present case, the Petitioner, being the President of OCCF, has abused his official position and, in connivance with other co-accused persons, has shown undue official favour to one Debendra Kumar Panda, a private person and Power of Attorney holder of M/s Vinayak Minerals, by appointing him as Marketing Agent for handling the coal business of OCCF during the relevant period of 2008-2010. He further submitted that such an appointment was made in clear violation of policy guidelines and circulars issued by the Directorate of Industries and by fabricating false records, thereby facilitating the said Marketing Agent to obtain illegal pecuniary advantage to the tune of Rs.25,24,581/- as commission, causing corresponding loss to the OCCF Ltd. As such, upon thorough investigation by the Vigilance Department, a charge sheet has been submitted against the Petitioner and other accused persons for offences punishable under Sections 13(2) read with 13(1)(d) of the PC Act read with Sections 420, 468, 471 and 120-B of the IPC.

15. Learned counsel for the Opposite Party-Vigilance Department has further stated that, as of now, cognizance has already been taken by the learned trial court, charges have been framed, and the trial is in progress. Learned counsel also submitted that the materials collected during investigation, as reflected in the charge sheet, clearly makes out a prima facie case against the accused persons. It was stated that the pleas raised by the Petitioner, including reliance on statutory audit reports and alleged absence of personal involvement, strictly constitute defence pleas which can only be adjudicated fairly during the trial after appreciation of evidence submitted from both sides. Learned counsel further submitted that it is a settled principle of law that at the stage of quashing, the Court should not undertake an exercise of appreciation of evidence or examine disputed questions of fact. Therefore, the judgments relied upon by the Petitioner are inapplicable to the facts of the present case and, the present criminal proceedings involving the Petitioner and other co-accused persons ought not to be interfered with by this Court in exercise of its inherent powers under Section 482 Cr.P.C, particularly when the trial has already commenced and is underway.

16. Further, with regard to the Petitioner's reliance on the audit reports of OCCF, learned counsel for the Opposite Party-Vigilance Department submitted that the contention of the Petitioner that OCCF earned profit of about Rs.3 crores during the relevant period, as reflected in statutory audit reports of OCCF, is wholly irrelevant and cannot absolve the Petitioner of criminal liability arising out of the Petitioner's conduct in abusing his official position to give away undue favour and facilitation of illegal pecuniary gain. It was stated that the illegalities committed by the Petitioner are in no way mitigated by the overall financial performance of OCCF. Learned counsel for the Opposite Party-Vigilance Department thereafter contended that the investigation by the Vigilance department has disclosed that after the engagement of the Marketing Agent, he has adopted fraudulent practices and used forged documents in the names of fake and non-existent firms, thereby obtaining illegal pecuniary advantages to the tune of Rs.36,15,068/- resulting in corresponding loss to OCCF Ltd.

17. Learned counsel for the Opposite Party-Vigilance Department, further referring to the appointment of the Marketing Agent, contended that the investigation revealed serious procedural violations in the appointment of the Marketing Agent. It was submitted that the willingness of intending persons was not invited as required under the Odisha General Financial Rules (OGFR), and no paper publication was issued. Moreover, the policy guidelines issued vide Government Circular No. 175 dated 09.09.2009, communicated to the Managing Director, OCCF vide Letter No. 22415 dated 14.09.2009 under the Odisha Co-operative Societies Act, 1962, were also violated. It is the learned counsel's contention that despite such mandatory requirements, the accused Debendra Kumar Panda was engaged as Marketing Agent in violation of government policy and by fabricating records, in conspiracy with co-accused persons including the present Petitioner.

18. So far as the matter of delay in conclusion of the trial is concerned, learned counsel for the Opposite Party-Vigilance Department contended that the same can be attributed to the accused persons including the Petitioner, since they failed to appear before the Court below despite repeated summons, necessitating issuance of non-bailable warrants. Subsequently, their appearance was secured, charges were framed, and trial is presently proceeding. Therefore, the learned counsel for the

Opposite Party-Vigilance Department submitted that the Petitioner cannot take advantage of such delay to seek quashing of the proceedings. In view of the above contentions, the learned counsel for the Opposite Party-Vigilance Department asserted that the FIR and charge sheet clearly disclose a prima facie commission of cognizable offences, and that there is no illegality, irregularity, or infirmity necessitating interference by this Court. As such, the present CRLMC petition, which is an attempt to derail the criminal trial, should be dismissed forthwith in the interest of justice.

ANALYSIS OF THE COURT

19. Heard learned senior counsel appearing for the Petitioner and the learned counsel for the Vigilance Department. Perused the F.I.R, the Final Form and other materials available on record along with the counter affidavit on behalf of the Opposite Party-Vigilance Department.

20. The Petitioner, who was the president of OCCF at the relevant point in time, has filed the present CRLMC petition, invoking the inherent powers of this Court under section 528 BNSS (erstwhile section 482 Cr.P.C) with a prayer to quash the F.I.R and criminal proceeding initiated against him. The main plank of the Petitioner’s argument is that hypothetically even if all the allegations in the F.I.R are taken to be true, no offence under the alleged section can be said to be made out against the Petitioner. It is the Petitioner's stance that even though he is the president of the society, all the decisions of OCCF are taken by a committee of management and not by the Petitioner alone. Also, given the fact that after nearly 15 years from the date of registration of the F.I.R the trial has not yet concluded, Petitioner's right to speedy trial has been violated. The Opposite Party-Vigilance Department, have naturally opposed the Petitioner's prayer, mainly on the ground that a clear case against him is made out as per the allegations in the F.I.R and Final Form, and that the Petitioner in connivance with other accused persons has abused his official position in engaging the Marketing Agent thereby causing a loss of more than Rs.30 lakhs to the Government Exchequer. The learned counsel has also stated that since the trial has already commenced, and some of the witnesses from the Prosecution side have already been examined, it would not be apt to interfere with the criminal proceeding at this stage.

21. In view of the aforesaid basic premise, this Court is required to adjudicate the veracity of the prayer of the Petitioner against the scope of exercise of the inherent powers of this Court under section 528 of BNSS. Before proceeding further, it would only be most apt to re-enunciate the basic guiding principles that govern the quashing of an F.I.R or criminal proceeding. In this context, reference may first be had to the landmark pronouncement of the Hon'ble Supreme Court in ***Bhajanlal's*** case, reported in ***1992 Supp. (1) SCC 335***, wherein the Hon'ble Court while clarifying that it is not practical to lay down any precise, clearly defined inflexible guidelines or rigid formulae or to give an exhaustive list of cases where such power should be exercised, observed that the power of quashing a criminal proceeding is to be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While issuing such clarification, the Hon'ble Court laid down certain illustrative scenarios where a High Court may quash the impugned F.I.R or criminal proceeding;

> "*(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
>
> *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
>
> *(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable*

offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

22. The aforesaid pronouncement of the Hon'ble Supreme Court of India is tune with the consistent line of judicial precedent flowing from ***R.P. Kapur v. State of Punjab***, reported in ***1960 SCC OnLine SC 21***. In ***R.P. Kapur*** (supra), while examining the scope of the inherent powers of the High Court under Section 561-A of the erstwhile Code of Criminal Procedure (which is *pari materia* with Section 482 of the present Code and Section 528 of the BNSS), the Hon'ble Supreme Court held that such inherent powers cannot be exercised in respect of matters specifically governed by other provisions of the Code. It was further clarified that the inherent jurisdiction may be invoked to quash criminal proceedings only in appropriate cases, either to prevent abuse of the process of the court or to secure the ends of justice. The Court also cautioned that, as a rule, criminal proceedings ought to proceed in accordance with the statutory framework, and interference at an interlocutory stage is to be exercised with circumspection.

23. Similarly in ***Madhu Limaye v. State of Maharashtra***, reported in ***(1977) 4 SCC 551***, the Hon'ble Apex Court, highlighting the power of the High Courts to do real and substantial justice in exercise of its inherent powers, interpreted the inherent powers under section 482 of Cr.P.C against the old 1898 code, and observed that;

> "*8. Under Section 435 of the 1898 Code the High Court had the power to "call for and examine the record of any proceeding before any inferior criminal court situate within the local limits of its…. jurisdiction for the purpose of satisfying itself ... as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court", and then to pass the necessary orders in accordance with the law engrafted in any of the sections following Section 435. Apart from the revisional power, the High Court possessed and possesses the inherent powers to be exercised ex debito justitiae to do the real and the substantial justice for the administration of which alone Courts exist. In express*

language this power was recognized and saved in Section 561-A of the old Code…

At the outset the following principles may be noticed in relation to the exercise of the inherent power of the High Court which have been followed ordinarily and generally, almost invariably, barring a few exceptions:

"(1) That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;

(2) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;

(3) That it should not be exercised as against the express bar of law engrafted in any other provision of the Code."

(Emphasis Supplied)

24. So far as the scope of consideration of materials on record is considered, in ***State of Andhra Pradesh v. Golconda Linga Swamy***, reported ***in (2004) 6 SCC 522***, a two-Judge Bench of the Hon'ble Supreme Court elaborated on the limited scope of material that may be examined by the High Court while exercising its jurisdiction to quash an FIR. The Court drew a clear distinction between the consideration of materials placed on record and the appreciation of evidence, holding that while the former is permissible, the latter falls beyond the permissible contours of such jurisdiction. It was clarified that only such material which, on its face, fails to disclose the commission of any offence, even if the allegations in the FIR are accepted in their entirety, may be looked into for the purpose of quashing. The Court observed as under:

> "*5. ...Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto…*"

25. In addition to the aforesaid principles, it is also fairly well settled that the power to quash an FIR should be exercised sparingly with circumspection and while exercising this power, the Court must believe the averments and allegations in the complaint to be true and correct. It has been repeatedly held that except in exceptional cases where noninterference would result in miscarriage of justice, the Courts should ordinarily refrain from interfering at the stage of investigation of offences (see ***Neeharika Infrastructure (P) Ltd. v. State of Maharashtra***, reported in ***(2021) 19 SCC 401***, and ***Punit Beriwala v. State (NCT of Delhi)***, reported in ***2025 SCC OnLine SC 983***). This Court is also aware that while exercising jurisdiction under Section 528 BNSS, it is not intended to conduct a mini-trial. Instead, the High Court is required to restrict its inquiry to whether the allegations made in the complaint or FIR, if accepted as true on their face, constitute a prima facie offence (reference, in this regard, may be had to ***CBI vs Aryan Singh***, reported in ***2023 SCC Online SC 379***). That said, it must also be borne in mind that that primary object of the F.I.R is to set the criminal investigation into motion. It may not set out the case in every minute detail with unmistakable precision. It is not the encyclopedia of all the facts and circumstances of the case on which prosecution relies, and, as such, the FIR is not considered a substantive evidence and its evidentiary value is limited to corroboration and contradiction of the evidences (see ***Nisar Ali v. State of U.P.***, reported in ***1957 SCC OnLine SC 42***, ***Kirender Sarkar v. State of Assam***, reported in ***(2009) 12 SCC 342***, and ***Bable Alias Gurdeep Singh v. State of Chhattisgarh***, reported in ***(2012) 11 SCC 181***). Therefore, the primary focus, while considering an application for quashing of an F.I.R/ criminal Proceeding, must always be to prevent abuse of the process of the Court or to otherwise secure the ends of justice.

26. So far the present matter is concerned, the alleged occurrence pertains to the period 2008-2010 and the F.I.R was initially lodged in the year 2010. The sanction to initiate prosecution against the Petitioner was obtained from the RCS, Bhubaneswar in 2011. The chargesheet was submitted in 2013, three years after registration of the F.I.R, and the charge was framed 9 years later in 2022, which is also when the first witness on behalf of the prosecution was examined. As of August, 2025 only 13 out of the 38 charge-sheeted witnesses have been examined. This implies that the case has been lingering on for one and half decades at this point and is no close to being concluded.

27. In the aforesaid context, it would be apt to refer to ***Maneka Gandhi Vs. Union of India & Anr*** reported in ***(1978) 1 SCC 248*** and ***Hussainara Khatoon & Ors. Vs. Home Secretary, State of Bihar***, reported in ***(1980) 1 SCC 81***, wherein it was observed by the Hon'ble Apex Court that Article 21 confers a fundamental right on every person not to be deprived of his life or liberty except according to procedure established by law, that such procedure is not some semblance of a procedure but the procedure should be 'reasonable, fair and just and therefrom flows, without doubt, the right to speedy trial. It was also observed that no procedure which does not ensure a reasonably quick trial can be regarded as 'reasonable, fair or just' and it would fall foul of Article 21. The aforesaid position was again considered by the Hon'ble Apex Court in ***Abdul Rehman Antulay v. R.S. Nayak***, reported in ***(1992) 1 SCC 225***, wherein the Hon'ble Supreme Court, after surveying a catena of decisions, formulated eleven non-exhaustive propositions recognising that fair, just and reasonable procedure implicit in Article 21 creates a right in an accused to be tried speedily. The Court held that where such right is found to have been infringed, quashing of charges or conviction may be an appropriate relief. However, this is not the only course open, and having regard to the nature of the offence and other attending circumstances, the Court may pass such other appropriate orders as the interests of justice demand. Subsequently, in ***P. Ramachandra Rao v. State of Karnataka***, reported in ***(2002) 4 SCC 578***, the Constitution Bench reaffirmed the law laid down in ***A.R. Antulay*** (*supra*).

28. Consequently, in ***Pankaj Kumar vs. State Of Maharashtra & Ors.***, reported in ***(2008) 16 SCC 117***, the Hon'ble Apex Court, again taking note of a catena of judicial decisions governing the field, including the ones cited above, observed that it is well settled that the right to speedy trial in all criminal persecutions is an inalienable right under Article 21 of the Constitution and such a right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The Hon'ble Apex Court has further observed that the right to speedy trial extends equally to all criminal persecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing test having regard to all attendant circumstances, and determine in each case as to whether the right to speedy trial has been denied. In the event the court arrives at the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a scenario, it is open to the High Court to pass any appropriate order as it may deem just and equitable including fixation of time for conclusion of trial [see paragraphs 17, 18, 19, 20, and 21 of ***Pankaj Kumar's case*** (*supra*)].

29. Moreover, the Hon'ble Supreme Court in ***Vakil Prasad v. State of Bihar***, ***(2009) 3 SCC 355***, emphasized that the right to a speedy trial is a fundamental right and that excessive delay in investigation or trial would compromise the fairness of the trial itself. It was further clarified that speedy trial means reasonably expeditious trial which is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. Similarly, in ***Mahendra Lal Das vrs. State of Bihar and Ors,*** reported in ***2002 (1) SCC 149*** it was held by the Hon'ble Supreme Court that prosecution delay beyond a reasonable period is not only detrimental to the accused but also undermines public confidence in the criminal justice system. The Court stated that inordinate delay causes not only personal hardship to the accused but also societal harm by rendering the process of justice ineffective. It was further observed that;

> *"**7.** **In cases of corruption the amount involved is not material but speedy justice is the mandate of the Constitution being in the interests of the accused as well as that of the society. Cases relating to corruption are to be dealt with swiftly, promptly and without delay. As and when delay is found to have been caused during the investigation, inquiry or trial, the concerned appropriate authorities are under an obligation to find out and deal with the persons responsible for such delay.** The delay can be attributed either to the connivance of the authorities with the accused or used as a lever to pressurise and harass the accused as is alleged to have been done to the appellant in this case…*
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> ***9.*** *Keeping in view the peculiar facts and circumstances of the case, we are inclined to quash the proceedings against the appellant as permitting further prosecution would be the travesty of justice and a mere ritual or formality so for as the*

prosecution agency is concerned, and unnecessary burden as regards the courts."

(Emphasis supplied)

30. So far as inordinate delay in conclusion of the trial is concerned, the Hon'ble Supreme court, in ***Santosh De Vs. Archana Guha & Ors.***, reported in ***(1994) 1 SCC 421***, while entertaining an appeal against the decision of the High Court to quash a criminal proceeding, declined to interfere with the impugned order of the High Court and observed that unexplained delay, of eight years in the said case, in commencing the trial by itself infringes the right of the accused to speedy trial. In the absence of any material to the contrary, the Court accepted the findings of the High Court that the delay of eight years was entirely and exclusively on account of the default of the prosecution, and, as such, dismissed the appeal. Similarly, in ***Directorate of Revenue v. Mohammed Nisar Holia***, reported in ***(2008) 2 SCC 370***, the Hon'ble Supreme Court observed that one of the mandates of Article 21 is that a person should not be disturbed except on sufficient grounds (para 18). The Court emphasised the need to balance the law enforcement powers of the State with the protection of citizens from injustice and harassment, observing that while the State has a duty to ensure that no crime goes unpunished, it also owes a duty to ensure that none of its subjects are unnecessarily harassed (paras 19–20).

31. Next, the Hon'ble Apex Court in ***Pankaj Kumar v. State of Maharashtra*** reported in ***(2008) 16 SCC 117*** quashed the criminal proceedings on account of "unwarranted prolonged investigations" that caused inordinate delay. It was held that;

> *"24. Tested on the touchstone of the broad principles, enumerated above, we are of the opinion that in the instant case, the appellant's constitutional right recognised under Article 21 of the Constitution stands violated. It is common ground that the first information report was recorded on 12-5- 1987 for the offences allegedly committed in the year 1981, and after unwarranted prolonged investigations, involving aforestated three financial irregularities; the charge-sheet was submitted in court on 22-2-1991. Nothing happened till April 1999, when the appellant and his deceased mother filed criminal writ petition seeking quashing of proceedings before the trial court.*
>
> *25.* ***Though, it is true that the plea with regard to inordinate delay in investigations and trial has been raised before us for the first time but we feel that at this distant point of time, it would be unfair to the appellant to remit the matter back to the High Court for examining the said plea of the appellant. Apart from the fact that it would further protract the already delayed trial, no fruitful purpose would be served as learned counsel for the State very fairly stated before us that he had no explanation to offer for the delay in investigations and the reason why the trial did not commence for eight long years. Nothing, whatsoever, could be pointed out, far from being established, to show that the delay was in any way attributable to the appellant****.*

***

27. Be that as it may, ***the prosecution has failed to show any exceptional circumstance, which could possibly be taken into consideration for condoning the prolongation of investigation and the trial****. The lackadaisical manner of investigation spread over a period of four years in a case of this type and inordinate delay of over eight years (excluding the period when the record of the trial court was in the High Court), is manifestly clear.*

28. Thus, on facts in hand, ***we are convinced that the appellant has been denied his valuable constitutional right to a speedy investigation and trial and, therefore, criminal proceedings initiated against him in the year 1987 and pending in the Court of the Special Judge, Latur, deserve to be quashed on this short ground alone.***"

(Emphasis supplied)

32. In addition to the above, reference may also be had to the recent judgement of Hon'ble Supreme Court in ***Hasmukhlal D. Vora and Anr. Vs. The State of Tamil Nadu*** reported in ***AIR 2023 SC 102***, wherein the Hon'ble Supreme Court set aside the impugned order of the High Court and quashed the impugned criminal proceeding, and held that:

"*24. In the present case,* ***the Respondent has provided no explanation for the extraordinary delay of more than four years between the initial site inspection, the show cause notice, and the complaint. In fact, the absence of such an explanation only prompts the Court to infer***

some sinister motive behind initiating the criminal proceedings.

25. ***While inordinate delay in itself may not be ground for quashing of a criminal complaint, in such cases, unexplained inordinate delay of such length must be taken into consideration as a very crucial factor as grounds for quashing a criminal complaint.***

26. While this court does not expect a full-blown investigation at the stage of a criminal complaint, however, in such cases where the accused has been subjected to the anxiety of a potential initiation of criminal proceedings for such a length of time, it is only reasonable for the court to expect bare-minimum evidence from the Investigating Authorities.

27. At the cost of repetition, we again state that the purpose of filing a complaint and initiating criminal proceedings must exist solely to meet the ends of justice, and the law must not be used as a tool to harass the accused. The law, is meant to exist as a shield to protect the innocent, rather than it being used as a sword to threaten them.

CONCLUSION

28. It must be noted that the High Court while passing the impugned judgment, has failed to take into consideration to the facts and circumstances of the case. ***While it is true that the quashing of a criminal complaint must be done only in the rarest of rare cases, it is still the duty of the High Court to look into each and every case with great detail to prevent miscarriage of justice.*** *The law is a sacrosanct entity that exists to serve the ends of justice, and the courts, as protectors of the law and servants of the law, must always ensure that frivolous cases do not pervert the sacrosanct nature of the law.*"

(Emphasis supplied)

33. Finally, the Hon'ble Supreme Court, very recently in ***Robert Lalchungnunga Chongthu v. State of Bihar***, reported ***2025 SCC OnLine SC 2511***, was concerned with a criminal prosecution that had remained pending for an inordinately long period without meaningful progress in trial, largely attributable to prosecutorial and systemic delays. The appellant's primary contention was that the prolonged pendency of the proceedings violated his fundamental right to a speedy trial under Article 21 of the Constitution. The Hon'ble Court, taking into consideration the pronouncement in ***Sovaran Singh Prajapati* v. *State of U.P.***, reported in ***2025 SCC OnLine SC 351***, wherein it was held that the process of investigation and trial must be completed with promptitude, and ***CBI v. Mir Usman***, reported in ***2025 SCC OnLine SC 2066***, along with its other earlier decisions, surveyed the constitutional jurisprudence on speedy trial and held that inordinate and unexplained delay in conclusion of criminal proceedings, particularly where attributable to the State, renders the prosecution oppressive and violative of Article 21, and may warrant quashing of the proceedings notwithstanding the seriousness of the allegations. The Court further emphasised that constitutional courts are duty-bound to intervene where the criminal process itself becomes punitive by the passage of time. Relevant portion thereof is quoted hereinbelow:

"***19.** ...When only the actions of the appellant were subject matter of investigation by the time permission was taken as above - **11 years is quite obviously a timeline afflicted by delay. No reason is forthcoming for this extended period either in the chargesheet or at the instance of the Court having taken cognizance of such chargesheet. In other words, the appellant has had the cloud of a criminal investigation hanging over him for all these years**. The judgments above referred to supra hold unequivocally that **investigation is covered under the right to speedy trial and it is also held therein, that violation of this right can strike at the root of the investigation itself, leading it to be quashed.** At the same time, it must be said that timelines cannot be set in stone for an investigation to be completed nor can outer limit be prescribed within which necessarily, an investigation must be drawn to a close. ...Where though, **Article 21 would be impacted would be a situation where, like in the present matter, no reason justifiable in nature, can be understood from record for the investigation having taken a large amount of time. The accused cannot be made to suffer endlessly with this threat of continuing investigation and eventual trial proceedings bearing over their everyday existence.***

****

21…(ii)** Reasons are indispensable to the proper functioning of the machinery of criminal law. They form the bedrock of fairness, transparency, and accountability in the justice system. **If the Court finds or the accused alleges (obviously with proof and reason to substantiate the allegation) that there is a large gap between the first information report and the culminating chargesheet, it is bound to seek an explanation from the investigating agency and satisfy itself to the propriety of the explanation so furnished.

The direction above does not come based on this case alone. This Court has noticed on many unfortunate occasions that there is massive delay in filing chargesheet/taking cognizance etc. This Court has time and again, in its pronouncements underscored the necessity of speedy investigation and trial as being important for the accused, victim and the society. However, for a variety of reasons there is still a lag in the translation of this recognition into a reality."

(Emphasis supplied)

34. Reverting to the matter at hand, the Prosecution-Vigilance Department contends that the prolonged pendency of the trial is attributable to the non-appearance of the Petitioner. However, a perusal of the order sheets of the learned trial court, placed at Annexure-6 series, reveals that the Petitioner was present on all material dates, except when his appearance was legitimately dispensed with under Section 317 of the Cr.P.C. Likewise, from the depositions of the witnesses examined so far, at Annexure-4 series, it is evident that the cross-examination of one witness was deferred on only one occasion, for a single day, pursuant to a time petition filed on behalf of the Petitioner. Except the aforesaid instance, on a prima facie perusal of the record, no other delay is discernible as being attributable directly and solely to the Petitioner. The Prosecution-Vigilance Department has further alleged that the delay was also occasioned due to non-appearance of the accused persons, necessitating issuance of non-bailable warrants to secure their presence for framing of charge. However, no material has been placed before this Court to substantiate the issuance of any such warrant against the present Petitioner, as claimed in the counter affidavit. In such circumstances, this Court is constrained to hold that the delay in the trial cannot be attributed to the Petitioner and that the same is, in fact, largely attributable to the prosecution.

35. Furthermore, even on merits, the Prosecution's case suffers from certain inconsistencies. The FIR alleges that the Petitioner and other co-accused caused a loss of Rs.25,24,581/- to the Government Exchequer, whereas the charge sheet quantifies the alleged loss at Rs.36,15,068/-. Similar discrepancies are also discernible in the counter affidavit filed by the Vigilance Department. Also, the prosecution has not provided the manner in which they have calculated the loss amount. A perusal of the charge sheet further reveals that Shri Choudhury Barada Prasana Das, the then Managing Director of OCCF, had requested the Principal Secretary to the Government to recommend OCCF for engagement as a State Nominated Agency (SNA) for procurement of coal from MCL. Likewise, Shri Hemant Kumar Sarma, the then Director of Industries, had recommended OCCF for such engagement. It was Shri Chakradhar Das, the General Manager of OCCF, who informed the Managing Director regarding OCCF's nomination as SNA and invited willingness from interested persons for engagement as Marketing Agent. It was also Shri Akhil Kumar Jena, the Managing Director, who had initially proposed that, due to insufficiency of funds with OCCF, a Marketing Agent may be appointed to handle the coal business on behalf of OCCF. So far as the Petitioner is concerned, the record indicates that he merely directed that the notice inviting willingness for appointment of Marketing Agent be circulated to all branches of OCCF and the offices of the RCS, that the noting regarding appointment of the Marketing Agent be communicated to the next bidder, and that the matter be placed before the next Board meeting. It further appears that the Business Sub-Committee had taken the decision to engage a Marketing Agent. Thus, prima facie, it does not appear that the Petitioner recommended the appointment of the Marketing Agent. Therefore, on the face of the material on record, there is no indication that the Petitioner recommended the appointment of the Marketing Agent or that any direct or exclusive responsibility can be attributed to him for the said appointment or the purported loss allegedly flowing therefrom.

CONCLUSION

36. Having considered the submissions advanced by the learned counsel for the respective parties, upon a perusal of the factual matrix and the materials available on record, and in the light of the foregoing analysis, this Court has no hesitation in holding that, both on the ground of inordinate delay in the framing of charge and conclusion of investigation, and by extension, the trial, as well as on merits, the present case is a fit one for exercise of the inherent jurisdiction of this Court under Section 528 of the BNSS to prevent abuse of the process of law and to secure the ends of justice. Accordingly, the impugned FIR bearing Bhubaneswar Vigilance P.S. Case No. 30 dated 02.06.2010, and the consequential criminal proceeding bearing T.R. No. 42 of 2013 pending before the learned 3rd Additional Sessions Judge, Bhubaneswar, are hereby quashed insofar as the present Petitioner is concerned.

37. The CRLMC application is allowed accordingly. However, there shall be no order as to costs.

(Aditya Kumar Mohapatra)

Judge

Orissa High Court, Cuttack

The 25th February, 2026/ S.K. Rout, Jr. Stenographer