



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.589 of 2024

P. Gopal Krishan

....

Petitioner

Mr. Milan Kanungo, Senior Advocate
along with Mr. S.R. Mohanty, Advocate

-Versus-

State of Odisha

....

Opposite Party

Ms. B. Dash, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

19.08.2025

Order No.

01. 1. Heard Mr. Kanungo, learned Senior Advocate for the petitioner and Ms. Dash, learned ASC for the State.
2. Instant revision is filed by the petitioner assailing the impugned order dated 22nd August, 2024 passed in connection with G.R. Case No.78 of 2016 by the learned S.D.J.M., Berhampur as at Annexure-4 corresponding to Gosaninuagaon P.S. Case No.06 of 2016, whereby, an application under Section 205 Cr.P.C. moved by him dispensing with his personal appearance during inquiry has been rejected.
3. Mr. Kanungo, learned Senior Advocate appearing for the petitioner refers to Annexure-3 and submits that the petitioner is a busy businessman and he is required to travel to different parts of India to look after his business affairs and hence, it is not possible for him to attend the Court in person on each date of posting, hence, such a request as per Section 205



Cr.P.C. was pressed into service but without considering and appreciating it in proper perspective, the learned Court below rejected the same followed by the impugned order as at Annexure-4. It is further submitted that unless the petitioner is allowed to be represented by a counsel before the learned Court below allowing such an application under Section 205 Cr.P.C. he would be subjected to immense inconvenience and hardship, the fact, which was completely lost sight of by the learned Court below, hence, the impugned decision by order dated 22nd August, 2024 i.e. Annexure-4 is required to be interfered with followed by consequential directions issued.

4. On the other hand, Ms. Dash, learned ASC for the State justifies the impugned order at Annexure-4 with the submission that the case is pending at the stage of commitment, whereas, the appearance of other two accused persons is awaited. It is further submitted that no reason has been assigned by the petitioner to avoid appearance before the learned Court below, hence, therefore, the application under Section 205 Cr.P.C. has been rightly rejected.

5. Perused the F.I.R. as at Annexure-1. A copy of the chargesheet is at Annexure-2 and the same is also gone through. It appears that the petitioner and other accused persons stand chargesheeted under Sections 272, 273 and other allied offences beside Sections 20 and 24 of the Cigarettes and Other Tobacco Act besides Section 59 of the Food Safety and Standards Act, 2006. The chargesheet reveals that the seizure of the contraband substance has been made from a Godown. It



is further revealed from the record that the petitioner, consequent upon filing the chargesheet as per Annexure-2, was issued with summons, whereafter, such an application under Section 205 Cr.P.C. was moved by him. The impugned order at Annexure-4 reveals that the commitment of the case has not taken place as yet. The chargesheet was filed in the year 2018 and by the time, the impugned order passed i.e. 22nd August, 2024, the commitment had not taken place. It is further informed to the Court that till date, the commitment has not been accomplished. In so far as the plea of the petitioner is concerned, it is revealed from Annexure-3 that the petitioner is a businessman. In fact, the contraband substance recovered from a Godown and it is alleged to have been manufactured by the accused persons. But, at no point in time, the petitioner was ever arrested during the continuation of investigation. Instead, upon filing the copy of the chargesheet as per Annexure-2, the learned Court below issued e summons to the petitioner. The record reveals that the petitioner is aged about 60 years. It is informed to the Court that the petitioner though a local resident of Bhubaneswar is required to travel throughout Odisha and even outside. Considering the above submissions and since the petitioner happens to be a busy person involved in business activities and is aged about 60 years and for the fact that the chargesheet is of the year 2018 and till date, for the non-appearance of two other accused persons, commitment of the case is still awaited, the Court being alive to the settled position of law is in agreement with the submission of Mr. Kanungo, learned Senior Advocate that insisting upon each date of appearance before learned Court below would certainly cause a



lot of inconvenience to him. Hence, therefore, the conclusion is that learned Court below should have allowed such dispensation in attendance of the petitioner while dealing with an application under Section 205 Cr.P.C. In other words, the Court is of the view that the impugned order as at Annexure-4 is required to be set aside so as to enable the petitioner to appear the Court below being duly represented by a counsel on the dates fixed for inquiry awaiting commitment of the case to the Court of Sessions.

6. Accordingly, it is ordered.

7. In the result, the revision petition stands allowed. As a necessary corollary, the impugned order dated 22nd August, 2024 at Annexure-4 of learned S.D.J.M., Berhampur is hereby set aside allowing the petitioner to attend the inquiry in connection with G.R. Case No.78 of 2016 being represented by a counsel in terms of Section 317 Cr.P.C.

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

(R.K. Pattanaik)
Judge

Balaram

Signature Not Verified

Digitally Signed
Signed by: BALARAM BEHERA
Designation: Personal Assistant
Reason: Authentication
Location: OHC, CUTTACK
Date: 21-Aug-2025 11:26:49

