



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3926 of 2024

Application under Section 482 of the Code of Criminal Procedure.

1. **Saroj Kumar Sethy**
2. **Soumya Ranjan Sethi**
3. **Rabindra Harichandan**
4. **Kandu @ Sangram Keshari Harichandan**
5. **Upendra Badajena**
6. **Milu Badajena @ Shyama Bandhu Badajena**
7. **Purusottam Badajena**

..... **Petitioners**

-versus-

1. **State of Odisha**
2. **Bidulata Behera**

..... **Opposite Parties**

For Petitioners : Mr. Kalpataru Khuntia, Advocate

For Opp. Parties : Mr. U.R. Jena, AGA
Mr. Debasis Sahoo, Advocate
(for O.P. No.2)

CORAM:

HON'BLE MISS JUSTICE SAVITRI RATHO

JUDGMENT

02.05.2025

Savitri Ratho, J. This CRLMC has been filed for quashing the criminal proceeding in T.R. Case No. 33 of 2020 in the court of learned 2nd Additional District and Sessions Judge, Khurda which arises out of Jankia P.S. Case No. 137 of 2020, under Sections 448, 323, 324



, 325, 307, 354 and 34 of IPC read with Section 3 (1) (i) / 3 (1) (r) / 3 (1) (s) and 3 (2) (v) of the SC and ST (Prevention of Atrocities) Act, 1989 (Amendment 2015) against the petitioners by the learned 2nd Additional District and Sessions Judge, Khurda.

2. Joint affidavit has been filed by the petitioners and the opposite party no.2-informant, stating that the matters have been amicably settled between them on the intervention of villagers and local gentry and the parties are living peacefully and have no enmity with each other and the informants do not want to proceed against the petitioners and have no objection if the criminal proceeding against the petitioners are quashed.

3. Mr. U.R. Jena, learned Additional Government Advocate produced the instructions dated 02.05.2025 of the IIC Jankia P.S., Khordha in Jankia P.S. Case No. 137 of 2020 where it is stated that he inquired about the credibility of the joint affidavit in the presence of village gentries and local Sarpanch and found it to be genuine and that the parties are now living peacefully in the village and have settled the dispute. The instructions are taken on record.



JUDICIAL PRONOUNCEMENTS

4. In the case of ***Gian Singh vs. State of Punjab : 2012***
(10) SCC 303, a two Judge Bench of the Supreme Court had referred the matter to a larger Bench .The three judge Bench answered the reference holding as follows :-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder,



rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other



words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

5. In the case of **Ramawatar vs. State of Madhya Pradesh : 2021 INSC 664, (2021) 10 SCR 499 : 2021 SCC OnLine SC 966**, the appellants had been convicted by the learned trial court under Section 3(1)(x) of the SC/ST Act and sentenced to undergo the consequential sentence of six months rigorous imprisonment and to pay a fine of Rs. 1000/- and their appeal against conviction had been dismissed by the High Court. The convict died during pendency of the appeal before the High Court. During pendency of the appeal before the Supreme Court, the parties had settled the matter amongst themselves and had filed an application for compromise. By invoking their power under Article – 142 of the Constitution of India, the Supreme Court quashed the criminal



proceedings. While doing so, the Supreme Court put a caveat that power under Article – 142 or Section 482 can be exercised where an appeal is pending before one or the other judicial forum. The relevant paragraphs of the judgment are extracted below :

“18. We may hasten to add that in cases such as the present, the Courts ought to be even more vigilant to ensure that the complainant victim has entered into the compromise on the volition of his / her free will and not on account of any duress. It cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the Courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the Courts should consider, would depend on the facts and circumstances of each case.

19. Having considered the peculiar facts and circumstances of the present case in light of the afore-stated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the reasons that:



Firstly, the very purpose behind Section 3(1)(x) of the SC/ST is to deter caste-based insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/ Scheduled Tribe community. In the present case, the record manifests that there was an undeniable pre-existing civil dispute between the parties. The case of the Appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the deprecated incident was the afore-stated civil/property dispute. Considering this aspect, we are of the opinion that it would not be incorrect to categorise the occurrence as one being overarchingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case.

Secondly, the offence in question, for which the Appellant has been convicted, does not appear to exhibit his mental depravity. The aim of the SC/ST Act is to protect members of the downtrodden classes from atrocious acts of the upper strata of the society. It appears to us that although the Appellant may not belong to the same caste as the Complainant, he too belongs to the relatively weaker/backward section of the society and is certainly not in any better economic or social position when compared to the victim. Despite the



rampant prevalence of segregation in Indian villages whereby members of the Scheduled Caste and Scheduled Tribe community are forced to restrict their quarters only to certain areas, it is seen that in the present case, the Appellant and the Complainant lived in adjoining houses. Therefore, keeping in mind the socio-economic status of the Appellant, we are of the opinion that the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed.

Thirdly, the incident occurred way back in the year 1994. Nothing on record indicates that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not brought to our attention any other occurrence that would lead us to believe that the Appellant is either a repeat offender or is unremorseful about what transpired.

Fourthly, the Complainant has, on her own free will, without any compulsion, entered into a compromise and wishes to drop the present criminal proceedings against the accused.

Fifthly, given the nature of the offence, it is immaterial that the trial against the Appellant had been concluded.

Sixthly, the Appellant and the Complainant parties are residents of the same village and live in very close proximity to each other. We have no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to avoid the revival of



healed wounds, and to advance peace and harmony, it will be prudent to effectuate the present settlement.”

DISCUSSION AND CONCLUSION

06. The petitioners and the informant's family are co-villagers. There was civil dispute between the parties leading to filing of different cases by both sides . Petitioner No. 1 had filed demarcation case before the Tahasiladr Khurda in the year 2019 . After demarcation was done , the petitioner had filed a proceeding under Section 144 Cr.P.C against Bijay Behera on 18.05.2020 and restrain order was passed on the next day i.e 19.05.2020 .On 2.06.2020 a proceeding under Section 188 of the Cr.P.C has been initiated by Petitioner No.1 and petitioner No.1 has also lodged FIR against Bijay Behera leading to registration of Jankia P.S. case No. 131 of 2020. Thereafter Bijay Behera lodged FIR leading to registration of Jankia P.S case No 132 of 2020 against some of the petitioners . FIR has been lodged by one Puspanjali Harichandan leading to registration of jankia P.S Case No 136 of 2020 against Bijay Behera and others .Thereafter FIR has been lodged by opposite Party No. .2 Bidulata Behera leading to registration of Jankia P.S Case No 137 of 2020 against the present petitioners . With the intervention of village gentry , the dispute



between them is stated to have been settled . CRLMC No. 3923 of 2024 has been filed for quashing the order of cognizance dated 23.11.2020 passed in G.R. Case No. 755 of 2020 by the learned JMFC (cog taking), Khurda which arises out of Jankia P.S. Case No. 132 of 2020,

07. It is apparent from a perusal of the FIR and joint affidavit that due to misunderstanding and previous dispute , the FIR in Jankia P.S case No 137 of 2020 had been filed and now the matter has been amicably settled . The dispute was personal in nature and no public interest is involved.

08. This case therefore does fall in the category, which the Supreme Court in the case of **Ramawatar** (supra) has said should not be quashed in exercise of power under Section 482 of the Cr.P.C.

09. Considering the submissions of the learned counsel for the respective parties, the fact that the dispute has been amicably settled between the parties who are co villagers and are now residing peacefully in the village, and as the Opposite Party No.2 is no longer interested in pursuing the case against the petitioners, the decisions on of the Supreme Court in the cases of **Gian Singh**



(supra) and **Ramwatar** (supra), I am of considered view that it would be in the interest of justice to quash the proceedings

10. The proceedings in T.R. Case No. 33 of 2020 in the court of learned 2nd Additional District and Sessions Judge, Khurda which arises out of Jankia P.S. Case No. 137 of 2020 is quashed.

11. The CRLMC is disposed of .

.....
(Savitri Ratho)
Judge

Orissa High Court, Cuttack.
The 2nd May, 2025.
puspa

Signature Not Verified

Digitally Signed
Signed by: PUSPANJALI MOHAPATRA
Designation: Personal Assistant
Reason: Authentication
Location: Orissa High Court
Date: 23-May-2025 19:05:12

