

**IN THE HIGH COURT OF ORISSA AT CUTTACK****CRLMC No.4435 of 2025**

(In the matter of a petition under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023).

Umakanta Kar

....

Petitioner(s)***-versus-******State of Odisha (VIG)***

....

Opposite Party (s)

Advocates appeared in this case through Hybrid Arrangement Mode:

For Petitioner (s)

:

*Mr. Meru Sagar Samantray, Adv.
Mr. Bharat Jalli, Adv.**For Opp. Party(s)*

:

*Mr. N. Moharana,
Standing Counsel (Vig.)***CORAM:****DR. JUSTICE SANJEEB K PANIGRAHI****DATE OF HEARING: -23.03.2026****DATE OF JUDGMENT: -22.05.2026****Dr. Sanjeeb K Panigrahi, J.**

1. The petitioner in the present petition is seeking the quashing of the criminal proceeding vide T.R. Case No.61/2009 corresponding to G.R.No.24/2005 (V) arising out of Berhampur Vigilance P.S. Case No.24/2005 pending in the Court of the learned Special Judge (Vigilance), Berhampur on the ground of delay in disposal of the case.

I. FACTUAL MATRIX:

2. The prosecution case, in brief, is that on 30.09.2005, one Prafulla Kumar Patel, Inspector of Police, Vigilance, Berhampur, lodged an FIR before



the Superintendent of Police, Vigilance, Berhampur Division, Berhampur, alleging therein that, on the basis of allegations regarding illegal assessment and valuation of trees, structures, etc. by the Tahasildar, Khallikote and others in the process of acquisition of land for widening of NH-5 and payment of compensation pursuant thereto, a Vigilance inquiry was initiated.

3. During the course of inquiry, it was found that the accused persons named in the FIR, namely, the petitioner Umakanta Kar, Tahasildar-cum-Competent Authority, Khallikote, Sri Radha Shyam Patra, Horticulturist, Chatrapur, Sri Devadutta Champatiray, Junior Horticulture Officer, Chatrapur, and Sri Purna Chandra Jena, Amin, had allegedly committed criminal misconduct by entering into criminal conspiracy with the land owner, Smt. Swarnaprabha Rath, and caused wrongful gain to the beneficiary by falsely showing the existence of mango trees over the acquired area measuring Ac.0.170 decimals under Plot No.1211 and Khata No.62 of Mouza-Dimiria, classified as “Bagayat” kisam of land, thereby causing wrongful loss to the Government to the tune of Rs.2,29,200/-. It was alleged that they were liable for offences punishable under Sections 13(2) read with 13(1)(c)(d) of the Prevention of Corruption Act, 1988 read with Sections 120-B/420 IPC. Accordingly, the case was registered and investigated.
4. After completion of investigation, the I.O. submitted Charge Sheet No.25 dated 14.10.2009 under Sections 13(2) read with 13(1)(c)(d) of the Prevention of Corruption Act, 1988 read with Sections 420/468/477-A/120-B IPC against the petitioner and others.



5. Consequent upon filing of the charge sheet, the learned Special Judge, Vigilance took cognizance of the offences and issued summons to the accused persons for their appearance vide order dated 10.11.2009.
6. The present case thus arises out of allegations of illegal disbursement of compensation during acquisition of land for widening of NH-5 on the basis of alleged false valuation and enumeration of mango trees over the acquired land.

II. SUBMISSIONS OF THE PETITIONER:

7. Learned counsel for the petitioner made the following submissions in support of his contentions:
 - i. The petitioner submitted that the criminal proceeding is liable to be quashed on the ground of unexplained and inordinate delay of more than two decades in conclusion of the trial, which, according to the petitioner, amounts to violation of the fundamental right to speedy trial guaranteed under Article 21 of the Constitution of India. It is contended that though the alleged occurrence relates to the year 2004 and the FIR was instituted on 30.09.2005, charge sheet was submitted on 14.10.2009 and charge was framed only on 08.11.2021. It is further submitted that out of 15 charge sheet witnesses, only three witnesses have been examined till date and the delay is not attributable to the petitioner. According to the petitioner, continuation of the criminal proceeding after lapse of more than twenty years amounts to abuse of process of Court and has caused severe harassment and prejudice to the petitioner. In order to buttress this submission, reliance has been



placed upon *P. Ramachandra Rao v. State of Karnataka*¹, *Pankaj Kumar v. State of Maharashtra and others*² and *CBI v. Mir Usman*³, wherein the Supreme Court has held that the right to speedy trial is a component of fair, just and reasonable procedure under Article 21 of the Constitution and extends to all stages of criminal proceedings including investigation, inquiry and trial, and that inordinate and unexplained delay may justify quashing of criminal proceedings.

- ii. It is further submitted that the petitioner, being the Tahasildar-cum-Competent Authority, had released the compensation amount in favour of the land owner on the basis of the enumeration and valuation report submitted by the Horticulturist, Sri Radhashyam Patra, and therefore had no direct role in the alleged false valuation of trees. It is contended that sanction for prosecution against the said Horticulturist was refused by the Government and as such the allegations against the present petitioner are groundless and no prima facie case is made out against him. In support of the aforesaid contention, reliance has been placed upon *Devinder Singh v. State of Punjab*⁴, wherein the Supreme Court held that the issue relating to sanction can be raised at any stage of the proceeding and that criminal prosecution must strictly comply with procedural safeguards.
- iii. It is further submitted that sanction for prosecution constitutes an important statutory safeguard available to a public servant where the

¹ (2002) 4 SCC 578.

² (2008) 16 SCC 117.

³ 2025 SCC OnLine SC 2066.

⁴ (2016) 12 SCC 87.



alleged acts arise out of discharge of official duties. According to the petitioner, the compensation amount was released by him in his capacity as Tahasildar-cum-Competent Authority on the basis of the valuation and enumeration report submitted by the Horticulturist and therefore the alleged acts were intrinsically connected with discharge of official functions. It is contended that sanction for prosecution against the concerned Horticulturist, namely Sri Radhashyam Patra, was refused by the Government and therefore continuation of the present criminal proceeding arising out of the same transaction is unsustainable in law. In order to buttress the aforesaid submission, reliance has been placed upon *Baijnath v. State of Madhya Pradesh*⁵, wherein the Supreme Court held that where the act complained of falls within the scope and range of official duty, the protection contemplated under Section 197 Cr.P.C. would be attracted. Reliance has also been placed upon *Mansukhlal Vitthaldas Chauhan v. State of Gujarat*⁶, wherein it was held that sanction is not an idle formality but a solemn safeguard intended to protect public servants against frivolous prosecution and that the sanctioning authority must apply its independent mind to the materials placed before it. Reliance was also placed upon *Parkash Singh Badal v. State of Punjab*⁷, wherein the Supreme Court observed that offences such as cheating, forgery and conspiracy ordinarily cannot be regarded as acts committed while

⁵ AIR 1966 SC 220.

⁶ (1997) 7 SCC 622.

⁷ (2007) 1 SCC 1.



acting in discharge of official duty and that official status may merely provide an opportunity for commission of the offence.

- iv. It is further submitted that where sanction for prosecution has been refused in respect of acts forming the substratum of the prosecution, continuation of the criminal proceeding may not be sustainable in law. According to the petitioner, the entire allegation against him arises out of discharge of official duties in his capacity as Tahasildar-cum-Competent Authority and the compensation amount was released on the basis of the valuation and enumeration report submitted by the concerned Horticulturist. It is contended that sanction for prosecution against the said Horticulturist having been refused by the Government, continuation of the present proceeding arising out of the same transaction amounts to abuse of process of Court. In order to buttress the aforesaid submission, reliance has been placed upon *Mohd. Iqbal Ahmad v. State of Andhra Pradesh*⁸, wherein the Supreme Court held that any prosecution instituted without proper sanction suffers from a manifest defect and the proceedings are rendered void ab initio.
- v. Reliance has also been placed upon *State of A.P. v. Golconda Linga Swamy*⁹ and *Rajendra Bihari Lal v. State of U.P.*¹⁰, wherein the Supreme Court observed that the High Court, in exercise of its inherent jurisdiction, may quash criminal proceedings where continuation thereof amounts to abuse of process of Court or where such interference is necessary to secure the ends of justice.

⁸ AIR 1979 SC 677.

⁹ (2004) 6 SCC 522

¹⁰ 2025 INSC 1249



- vi. Further reliance has been placed upon *Amod Kumar Kanth v. Association of Victims of Uphaar Tragedy*¹¹, wherein the Supreme Court reiterated that where the alleged act or omission is traceable to discharge of official duty by a public servant, the protection relating to sanction must be given due effect and the question of sanction has to be examined keeping in view the nature of official functions discharged by the public servant. On the strength of the aforesaid decisions, it is submitted that continuation of the criminal proceeding against the petitioner despite refusal of sanction in respect of the acts forming the basis of the prosecution is not sustainable in law and is liable to be quashed.
- vii. It is further submitted that once the competent authority has refused sanction for prosecution holding that the case is not fit for prosecution, investigation or prosecution on the very same allegations and materials cannot ordinarily continue unless fresh materials are brought on record warranting reconsideration of the earlier decision. According to the petitioner, sanction for prosecution against the concerned Horticulturist, on whose valuation report the compensation amount was released, was refused by the Government and there is nothing on record to show existence of any fresh material justifying continuation of the present prosecution arising out of the same transaction. In order to buttress the aforesaid submission, reliance has been placed upon *State of Punjab v. Mohammed Iqbal Bhatti*¹², wherein the Supreme

¹¹ (2023) 16 SCC 239

¹² JT 2009 (13) SC 180



Court held that once sanction is declined under Section 19 of the Prevention of Corruption Act or Section 197 Cr.P.C., reconsideration of the same on identical materials is impermissible unless fresh materials are brought before the sanctioning authority. It was further observed therein that in absence of fresh materials or circumstances necessitating reconsideration, the earlier refusal of sanction must stand.

- viii. Reliance has also been placed upon *Central Bureau of Investigation v. Ashok Kumar Aggarwal*¹³, wherein the Supreme Court observed that the power to grant sanction must be exercised with due application of mind keeping in view all relevant facts and materials and the prosecution is required to establish that the sanctioning authority had considered the entire materials before taking a decision regarding prosecution. On the strength of the aforesaid decisions, it is submitted that continuation of the criminal proceeding on the same allegations despite refusal of sanction and in absence of any fresh material is unsustainable in law and amounts to abuse of process of Court.

III. SUBMISSIONS OF THE OPPOSITE PARTY:

8. Per contra, learned counsel for the opposite party made the following submissions in support of his contentions:
 - i. It is humbly submitted on behalf of the State that since the petitioner has already retired from service, sanction under Section 19 of the Prevention of Corruption Act is not required for taking cognizance and proceeding against him. It is further submitted that for the offences

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under Sections 420/468/477-A/120-B IPC, sanction is not required, as held by the Supreme Court in a catena of authoritative pronouncements.

- ii. It is humbly submitted that the land owner, namely Smt. Swarnaprava Rath, had approached this Court assailing the instant criminal proceeding in CRLMC No.2461 of 2021, wherein an interim order was passed, leading to stalling of the proceeding. However, the said CRLMC was dismissed for non-prosecution vide order dated 17.05.2023. Subsequently, the said CRLMC was restored vide order dated 09.08.2024 and is presently pending before this Court. It is further submitted that no certificate to that effect has been furnished.
- iii. It is humbly submitted that the petitioner had earlier filed CRLMC No.3452 of 2025 assailing the order of cognizance dated 10.11.2009, which was subsequently withdrawn vide order dated 15.10.2025.
- iv. It is further humbly submitted that the delay in trial is completely attributable to the accused persons. It is submitted that the occurrence relates to the year 2004, the FIR was registered in the year 2005 and charge sheet was submitted in the year 2009. Cognizance was taken on 10.11.2009 and charge was framed on 08.11.2021. In the meantime, out of 15 prosecution witnesses, 7 witnesses have already been examined and the trial is continuing.
- v. It is submitted that the delay in framing of charge and progress of trial after taking cognizance on 10.11.2009 is attributable to the accused persons and the prosecution is not responsible for the same. Hence,



according to the State, the petitioner cannot take advantage of the laches on the part of the accused persons. It is further submitted that the proceeding remained stalled due to the interim order passed in the petition filed by the co-accused Smt. Swarnaprava Rath and the prolonged pendency thereof, as well as due to non-cooperation and dilatory tactics adopted by the accused persons during trial on different pretexts.

- vi. It is humbly submitted that charge has already been framed and examination of prosecution witnesses is continuing. It is submitted that the trial of the case has substantially progressed and therefore, at this stage, the prayer made by the petitioner is not sustainable.
- vii. It is further submitted that since the petitioner had already retired from service at the time of submission of charge sheet as well as on the date of taking cognizance, no sanction under Section 19 of the Prevention of Corruption Act, 1988 was required to prosecute him. In order to buttress the aforesaid submission, reliance has been placed upon *K. Veeraswami v. Union of India*¹⁴ and *CBI v. B.A. Srinivasan*¹⁵, wherein the Supreme Court held that sanction under Section 19 of the Prevention of Corruption Act is not necessary in respect of a person who had ceased to be a public servant on the date the Court took cognizance.
- viii. It is also humbly submitted that for the offences under Sections 420/468/477-A/120-B IPC, sanction is not required. In support of the

¹⁴ (1991) 3SCC 655.

¹⁵ (2020) 2SCC 153.



said submission, reliance has been placed upon *Parkash Singh Badal v. State of Punjab*¹⁶, wherein the Supreme Court held that offences relating to cheating, forgery and conspiracy cannot, by their very nature, be regarded as acts committed while acting or purporting to act in discharge of official duty and that official status merely provides an opportunity for commission of such offences.

- ix. Further reliance has been placed upon *Rajib Ranjan v. R. Vijaykumar*¹⁷, *P.K. Pradhan v. State of Sikkim*¹⁸, *Satyabrata Gupta v. State of Jharkhand*¹⁹, *Inspector of Police v. Battenapatla Venkata Ratnam*²⁰ and *Station House Officer, CBI/ACB, Bangalore v. B.A. Srinivasan*²¹, to contend that entering into criminal conspiracy, fabrication of records, cheating or criminal misconduct cannot be treated as acts done in discharge of official duty and therefore protection under Section 197 Cr.P.C. or Section 19 of the Prevention of Corruption Act would not bar continuation of criminal proceedings. It is further submitted that the question whether the alleged acts were connected with discharge of official duty can appropriately be examined during trial upon appreciation of evidence.

IV. COURT'S REASONING AND ANALYSIS:

9. Heard learned counsel for the parties and perused the material on record.

¹⁶ 2007 (1) SCC 1.

¹⁷ 2014 AIR SCW 5924

¹⁸ (2001) 6 SCC 704

¹⁹ (2020) 79 OCR (SC) 728

²⁰ Criminal Appeal No. 129 of 2013

²¹ (2020) 2 SCC 153



10. Before advertng to the rival submissions advanced by the parties, it is apposite to note that the inherent jurisdiction of this Court under Section 482 Cr.P.C. is to be exercised sparingly and with circumspection. Such power can be exercised only to prevent abuse of process of Court or otherwise to secure the ends of justice. While exercising jurisdiction under Section 482 Cr.P.C., the Court is not expected to embark upon appreciation of evidence or conduct a mini trial.
11. The principles governing exercise of inherent jurisdiction under Section 482 Cr.P.C. have been authoritatively laid down by the Supreme Court in *State of Haryana v. Bhajan Lal*²², wherein it was observed:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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

²² (1992 Supp (1) Scc 335)



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."

12. One of the principal grounds urged by the petitioner for quashing of the criminal proceeding is the alleged violation of the right to speedy



trial on account of inordinate delay in conclusion of the trial. In this context, it becomes necessary to examine the scope and ambit of the right to speedy trial under Article 21 of the Constitution of India and whether the facts of the present case warrant exercise of inherent jurisdiction on that ground.

13. The right to speedy trial is undoubtedly a facet of Article 21 of the Constitution of India and is an essential component of a fair trial. However, while examining a plea relating to delay in criminal proceedings, the Court cannot quash the proceeding solely on the ground of lapse of time. Factors such as the nature of the allegations, number of witnesses, stage of the trial and any dilatory tactics adopted by the accused persons are also required to be taken into consideration.
14. In *P. Ramachandra Rao v. State of Karnataka*²³, the Supreme Court reaffirmed the principles laid down in *Abdul Rehman Antulay v. R.S. Nayak*²⁴ and observed that criminal courts should exercise their available powers to effectuate the right to speedy trial and that the High Court, in appropriate cases, may exercise jurisdiction under Section 482 Cr.P.C. and Articles 226 and 227 of the Constitution seeking appropriate relief or suitable directions. The Supreme Court further held that while considering a plea of denial of speedy trial, the Court has to balance and weigh the several relevant factors and determine in each case whether such right has been denied.

²³ (2002) 4 SCC 578.

²⁴ 1992 SCC(CRI) 93.



15. Applying the aforesaid principles to the facts of the present case, this Court finds that the alleged occurrence relates to the year 2004, the FIR was instituted on 30.09.2005 and charge sheet was submitted on 14.10.2009. Cognizance of the offences was taken on 10.11.2009 and charge was framed on 08.11.2021. It further appears from the submissions advanced by the parties that out of 15 charge sheet witnesses, 7 witnesses have already been examined and the trial is presently continuing.
16. It further appears from the materials on record that the co-accused Smt. Swarnaprava Rath had approached this Court in CRLMC No.2461 of 2021 assailing the criminal proceeding and pursuant to interim orders passed therein, the trial remained stalled for a considerable period. It is also not disputed that the present petitioner had earlier approached this Court in CRLMC No.3452 of 2025 assailing the order of cognizance, which was subsequently withdrawn. Therefore, the delay in conclusion of the trial cannot be said to be wholly attributable to the prosecution alone.
17. The Supreme Court in *CBI v. Mir Usman*²⁵ reiterated that while considering a plea relating to delay, the Court is required to balance the right of the accused with the nature and gravity of the offence and the stage of the trial.
18. In the present case, the allegations against the petitioner pertain to offences under the Prevention of Corruption Act and the Indian Penal Code involving alleged illegal disbursement of compensation during

²⁵ 2025 SCC OnLine SC 2066.



land acquisition proceedings causing wrongful loss to the public exchequer. This Court also cannot lose sight of the fact that the trial has substantially progressed and examination of prosecution witnesses is continuing.

19. In such view of the matter, this Court is not persuaded to hold that the delay in the present case is wholly unexplained or entirely attributable to the prosecution so as to warrant quashing of the criminal proceeding in exercise of inherent jurisdiction under Section 482 Cr.P.C.
20. So far as the contention relating to sanction is concerned, the specific stand of the State is that the petitioner had already retired from service prior to submission of charge sheet and taking cognizance and therefore sanction under Section 19 of the Prevention of Corruption Act was not required. In *CBI v. B.A. Srinivasan*²⁶, the Supreme Court observed that no sanction is necessary to prosecute a person under the Prevention of Corruption Act if they have ceased to be a public servant prior to the date on which the court takes cognizance of the offenses.
21. The further contention of the petitioner that refusal of sanction against the concerned Horticulturist renders continuation of the present proceeding unsustainable also does not merit acceptance at this stage. The allegations against the petitioner relate to his independent role as Tahasildar-cum-Competent Authority in allegedly releasing compensation on the basis of false valuation reports and in furtherance of criminal conspiracy. Such matters necessarily require appreciation of

²⁶ (2020) 2SCC 153.



evidence during trial and cannot appropriately be adjudicated in exercise of jurisdiction under Section 482 Cr.P.C.

V. CONCLUSION:

22. Having regard to the nature and gravity of the allegations, the stage of the trial, the materials available on record and the settled principles governing exercise of inherent jurisdiction, this Court does not find any exceptional circumstance warranting interference with the impugned criminal proceeding.
23. Accordingly, the CRLMC being devoid of merit stands **dismissed**.
24. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 22nd May, 2026/*