



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5077 of 2025

Hadibandhu Mallik @ Budhia *Petitioner(s)*

Mr. Deepak Kumar Sahoo, Adv.

-versus-

State of Orissa & Anr. *Opposite Party(s)*

Mr. Debashish Nayak, AGA

Mr. Nalini Kanta Sahoo, Adv.

CORAM:

HON'BLE DR.JUSTICE SANJEEB K PANIGRAHI

Order No.

01.

ORDER

04.05.2026

1. This matter is taken up through hybrid arrangement.
2. In the present CRLMC, the Petitioner against whom the allegation of assaulting the Opposite Party No.2 is made, has prayed for quashing the entire criminal proceeding initiated against him vide G.R. Case No.462/2025 arising out of Nikirai P.S. Case No.326/2025 pending before the Court of learned JMFC (CT), Kendrapara.
3. Heard.
4. At the outset, learned counsel for the Petitioner and learned counsel for the Opposite Party No.2 /informant in one tone submit that both the parties are ready for amicable settlement of the dispute involved herein. They also submit that due to some misunderstanding

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the above noted F.I.R was lodged against the Petitioner. A joint affidavit has been filed to that effect. They, accordingly, pray for allowing the prayer made in this CRLMC.

5. The relevant portions of the said joint affidavit filed by both the parties are extracted hereunder:-

“xxx

xxx

xxx

1. *That, we both the parties are belongs to one aria and the informant is a manager of a liqure shop and the petitioner is a social worker protested the functioning of the liqure shop for which being aggrieved he has file the above case against the petitioner which is subjudice before the learned JMFC (CT), Kendrapara. and we both are very closely associated with each other due to misunderstanding the opposite party no-2 who is the informant in this case file a written complain before the Nikirai Police Station in which Nikirai P.S Case no-326/2025 was registered against the Petitioner.*
2. *That, due to the disimilarties of opinion and the ill felling the opposite party / informant file a written complain before the Nikirai police station against the petitioners in which Nikirai ps case no-326/2025, corresponding to the G.R Case no-462/2025 was registered against the present petitioner for the commission of the offences under section 309(4), 115(2), 324(4), 351(4), 3(5) of the BNS Act 2023 and section 25, 27 of the Arms act corresponding to the old act under section 392, 323, 427, 506, 34 of the IPC.*

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3. That, the petitioner prefer the above application before this hon'ble Court for quashing of the FIR and proceeding thereon on the ground of compromise as because both are belongs to one Aria and in the mean time they have settled the matter out of court by intervention of the local gentles.
4. That, in the meantime both of us settled the matter out of court and we have no interest to proceed further in the above case for which we both of us filling the above affidavit before this hon'ble court for the appreciation of the fact and law involve in this case for ends of justice.
5. That, fact remains we both of us are belongs to one aria and due to some misunderstanding the informant file the above case and in the meantime bad time has already been passed and at present they ware living peacefully and both of us have no interest at all to proceed further in the above case
6. That, if the above case will linger for year together then misunderstanding will lie over then it will hamper our social relationship so keeping eye upon our future we both of us join hand together forgetting the past misunderstanding and we have no interest to proceed further in this case.
7. That, we are filling this affidavit without any pressure and fear for appreciation of the facts and law involve in this case for ends of the justice.
8. That, the fact stated in this affidavit are true to the best of my knowledge and believes and as per our instruction this affidavit is typed by our advocate and after going through the contents of the affidavit and understanding it as correct we both put our signature on it.

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xxx

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xxx"

6. This Court has considered the joint affidavit filed by both parties and is conscious of the settled legal position that the inherent jurisdiction of the High Court under Section 482 Cr.P.C. is distinct from the power of compounding under Section 320 Cr.P.C., and may be invoked to secure the ends of justice or to prevent abuse of the process of Court. At the same time, such power is not to be exercised mechanically merely because the parties have arrived at a settlement; the Court is required to examine the nature and gravity of the allegations, the real genesis of the dispute, the stage of the proceeding, and whether, in view of the stand now taken by the victim, the possibility of conviction has become remote and continuation of the prosecution would amount to futility or oppression.

7. In the present case, Opposite Party No.2 has joined the Petitioner in filing a sworn affidavit and has categorically stated that he does not wish to proceed further with the criminal case and that the Petitioner is not involved in the alleged occurrence. Thus, the Court is not proceeding on the basis of a bare compromise alone, but on the subsequent stand of the complainants, which substantially erodes the factual substratum of the prosecution. Having regard to the materials on record,

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the stage of the case, and the unequivocal position taken by the complainants, this Court is satisfied that the possibility of a successful conviction is remote and bleak, and that continuation of the impugned proceeding would serve no useful purpose but would instead amount to abuse of the process of law.

8. In light of the aforesaid, and applying the same to the facts of the present case, this Court is of the considered view that continuance of the impugned criminal proceeding would amount to an abuse of the process of Court and would not subserve the ends of justice.
9. In fact, in the case of *Shiji @ Pappu v. Radhika*¹ the Supreme Court has held that even where an offence is non-compoundable, quashing may still be justified, if there is no realistic chance of conviction and continuance is an empty formality. The Court held as follows:

“It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences

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by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other."

10. Similar view was taken by the Supreme Court in the case of **Manoj Sharma v. State**² wherein the Court held as follows:

"It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other."

11. Tested against the aforesaid principles and the facts of the present case, this Court finds that allowing the prosecution to continue would be futile and would amount to an abuse of the process of law.

12. In view of the foregoing discussion, the application is allowed. Accordingly, the F.I.R. in Nikirai P.S. Case No.326/2025 is, hereby, quashed. Consequently, the entire criminal proceeding arising therefrom, i.e., G.R.

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(2008) 16 SCC 1



Case No.462/2025 pending before the Court learned
J.M.F.C (CT), Kendrapara also stands quashed.

13. This CRLMC is, accordingly, disposed of.

(Dr. Sanjeeb K Panigrahi)
Judge

Ayaskanta

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