



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5312 of 2025

Sadasiba Swain & Anr. *Petitioner(s)*
Mr. Pradeep Kumar Kundu, Adv.
-versus-
State of Orissa & Anr. *Opposite Party(s)*
Mr. Chitta Ranjan Swain, AGA
Mr. Hemant Kumar Tripathy, Adv.

CORAM:

HON'BLE DR.JUSTICE SANJEEB K PANIGRAHI

Order No.

05.

ORDER

23.03.2026

1. This matter is taken up through hybrid arrangement.
2. In the present CRLMC, the Petitioners against whom the allegation of assaulting the informant by means of bamboo stick is made, have prayed for quashing the entire criminal proceeding initiated against them vide G.R. Case No.67 of 2016 arising out of Niali P.S. Case No.7/2016 pending before the Court of learned J.M.F.C, Niali including the order of cognizance dated 18.09.2017.
3. Heard.
4. At the outset, learned counsel for the Petitioners 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



the above noted F.I.R was lodged against the Petitioners. 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 the opposite party No.2 is the informant in this case and on basis of his written report a case was registered vide Niali P.S. Case No.7 of 2016 for commission of offence under Sections 341, 323, 324, 325, 34 of I.P.C and subsequently charge sheet was submitted U/s. 307 of IPC including other offences against his tow sons i.e. present petitioner No.1 and 2 and the same is now subjudice before the court of learned J.M.F.C, Niali after submission of Final Form.*
2. *That soon after the occurrence the matter has been settled between us and a compromise petition was given to police. But on verification it is found that charge sheet was submitted and due to family dispute there was a quarrel between the opposite party No.2 (informant) and his younger brother and son. Out of anger the opposite party No.2/ informant lodged the F.I.R against the petitioners who are the sons of informant/ opp. Party No.2 and now they are residing outside of the State and maintaining their livelihood by working in private company.*
3. *That both the petitioners and informant are pulling well and regularly taking care of informant/ opposite party No.2 by sending*



money every month. So, the informant does not want to proceed with the case further and he has no objection if the case is quashed.

- 4. That we swear this affidavit according to our sweet will without any pressure or threat.*
- 5. That both the parties swearing this affidavit to state that, the matter has been amicably settled between them in the meantime.*

xxx

xxx

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 Petitioners in filing a sworn affidavit and has categorically stated that she does not wish to proceed further with the criminal case and that the Petitioners



are 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 complainant himself, which substantially erodes the factual substratum of the prosecution. Having regard to the materials on record, the stage of the case, and the unequivocal position taken by the complainant, 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 the 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:

¹ AIR 2012 SUPREME COURT 499



"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."

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

² (2008) 16 SCC 1



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 Niali P.S. Case No.7/2016 is hereby quashed. Consequently, the entire criminal proceeding arising therefrom, i.e., G.R. Case No.67 of 2016 pending before the Court of learned J.M.F.C, Niali also stands quashed.

13. This CRLMC is, accordingly, disposed of.

(Dr. Sanjeeb K Panigrahi)
Judge