



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV No.14 of 2026

Akshaya Kumar Biswal* *Petitioner

Mr. D.R. Mohapatra, Advocate

-versus-

1. State of Odisha* *Opposite Parties
2. Ananta Narayan
Senapati

Mr. M.R. Mohanty, AGA
Mr. A.K. Moharana, Adv. (O.P.2)

CORAM: JUSTICE V. NARASINGH

ORDER

19.03.2026

Order No.

03.

1. Heard learned counsel for the Petitioner, learned counsel for the State and learned counsel for the Opposite Party No.2.

2. The order passed by the learned Additional District & Sessions Judge, Jajpur thereby setting aside the order dated 18.01.2024 passed by the Collector, Jajpur in Criminal Misc. Case No.01 of 2023 in exercise of power under Section 133 of Cr.P.C., which is the subject matter of challenge, is assailed in this Criminal Revision.

3. Learned counsel for the Petitioner submits that the learned Sessions Judge misdirected himself in arriving at the conclusion that the order passed by the Collector, Jajpur was not a conditional one. Hence



in exercise of revisional jurisdiction, the matter merits consideration.

4. Per contra, learned counsel for the Opposite Party No.2 submits that there is no illegality in the order so passed. Hence, it needs no interference.

5. To know the veracity of the allegations regarding the location of the Fly Ash Bricks unit in question, a report was called for from the Collector, Jajpur. The said report and that of the Additional Tahasildar on the basis of which the proceeding under Section 133 Cr.P.C. was instituted, as submitted by the learned counsel for the Petitioner is taken on record.

6. While exercising the jurisdiction, by order dated 18.01.2024 under Section 133 Cr.P.C. the Collector has observed that the unit in question is creating a lot of pollution and in the light of the same, gave opportunity to Opposite Party No.2 to shift to a suitable place within a period of 2 months as per the provision under the State Pollution Control Board, Odisha. The operative portion of the said order is extracted hereunder for convenience of reference.

".....Under the above circumstances, you are hereby directed to stop the bricks manufacturing activity immediately and shift the unit from the Municipality area to any other suitable place within two months as per provision under State Pollution Control Board, Odisha or else the unit will be removed by the local authority concern as per provision under



Section 133 Cr.P.C. to protect public nuisance.
Intimate all concerned”.

(Emphasized)

7. Assailing the same, the Opposite Party No.2 preferred the Criminal Revision No.5 of 2024 and the learned sessions judge in the operative portion of the order extracted hereunder came to a conclusion that since conditional order has not been passed, the collector has exercised the jurisdiction under Section 133 Cr.P.C. and set aside the order dated 18.01.2024 referred to hereinabove, which is assailed in this Revision as noted:-

“The Learned SDM, Jajpur has proceeded under Section 133 Cr. P.C. without passing a conditional order. The passing of the conditional order gives jurisdiction to the learned SDM, Jajpur to proceed further. He treated the private dispute as a public dispute. Hence, he committed a jurisdictional error and the order suffers from illegality which is liable to be set aside in the proceedings under Section 397 Cr. P.C. In that view of the matter, the order in Criminal Misc No. 1/2023 dated 18.01.2024 passed by the learned S.D.M, Jajpur, is hereby set aside and the revision application stands allowed.”

8. On a bare perusal of the orders extracted hereinabove of the Collector under Section 133 Cr.P.C., it is clear that the Collector has in fact passed a conditional order and hence the observation of the learned sessions judge is de-hors the record.



9. It is also seen from the report as submitted by the collector that the unit in question is still continuing thereby causing pollution and health hazard to all concerned including students prosecuting their studies in a nearby Municipality High School. Hence, on a conspectus of materials on record this Court is persuaded to hold that the impugned order passed by the learned Sessions Judge is liable to be interfered with.

10. Accordingly, the order passed by the learned Additional District and Sessions Judge, Jajpur dated 01.12.2025 is set aside.

11. At this stage, learned counsel for the Opposite Party No.2 files an undertaking which is on record indicating therein to shift his Fly Ash Bricks unit within a period of three months.

12. Accordingly, it is directed that the offending unit in question shall be shifted within three months as undertaken failing which the authorities shall act in accordance with law and further liberty is granted to the State authorities to bring the same to the notice of this Court to consider initiation of steps for violation of the undertaking submitted to this Court.

13. Accordingly, the CRLREV stands disposed of.

Signature Not Verified

Digitally Signed
Signed by: AYESHA ROUT
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 20-Mar-2026 19:52:50



**(V. Narasingh)
Judge**