

(2025) 05 OHC CK 1212
In the Orissa High Court
Case No : CRLMC No. 415, 422 Of 2025

Abdul Riyaz

APPELLANT

Vs

State Of Odisha Vs

RESPONDENT

Date of Decision : 13-05-2025

Acts Referred:

Bharatiya Nyaya Sanhita, 2023 — Section 528
Code of Criminal Procedure, 1973 — Section 41A, 482
Indian Penal Code, 1860 — Section 34, 294, 323, 341, 427, 506

Citation : (2025) 05 OHC CK 1212

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : Nalini Kanta Dash, S. N. Biswal, Ranjan Kumar Nayak

Final Decision : Allowed

Judgement

Savitri Ratho, J

1. CRLMC No. 415 of 2025 has been filed for quashing the order of cognizance dated 03.07.2024 passed by the learned JMFC-II (Cog. Taking), Cuttack in G.R. Case No. 742 of 2024 arising out of Dargha Bazar P.S. Case No. 130 of 2024 for the commission of offences under Sections 341, 323, 294, 506 and 34 of IPC.

2. CRLMC No. 422 of 2025 has been filed for quashing the order of cognizance dated 05.07.2024 passed by the learned JMFC-II (Cog. Taking), Cuttack in G.R. Case No. 739 of 2024 arising out of Dargha Bazar P.S. Case No. 133 of 2024 for the commission of offences under Sections 341, 323, 294, 427, 506 and 34 of IPC.

BACKGROUND

3. That, the Petitioners and the Opposite Party No.2 in both CRLMC No. 415 of 2025 and CRLMC No. 422 of 2025 are related to each other. Taranum Begum - the informant in Dargha Bazaar P.S. case No 130 of 2024 and Opposite Party No.2 in CRLMC No. 415 of 2025 is the sister in law of Petitioners No. 1 to 3 (wife

of their brother Abdul Siraj). Lelun Nisha - the informant in Dargha Bazaar P.S. Case No.133 of 2024 (Opposite Party No. 2 in CRLMC No. 422 of 2025) is mother of the Petitioners No. 1 to 3 in CRLMC No. 415 of 2025 and also mother of Petitioner No.1 in CRLMC No. 422 of 2025. They were residing under the same roof along with their families till the end of June, 2024. Abdul Gaffar (father of the Petitioners No.1 to 3 in CRLMC No. 415 of 2025 and father of Petitioner No.1 in CRLMC No. 422 of 2025 and husband of Opposite Party No.2 in CRLMC No. 422 of 2025) had purchased the plot, on which the residential house of the parties is constructed, in the year 1978. In the year 2015, Abdul Gaffar wanted to sell the said property to meet his personal expenses, for which his three sons - Petitioners No. 1 to 3, with an intention to retain the parental asset, offered the proposal to their father to sell the property to them instead of to an outsider.

That, accordingly vide Registered Sale Deed No.2704 dated 17.05.2015, Abdul Gaffar transferred the property in favour of the Petitioners No. 1 to 3. Opposite Party No.2 and her husband were allowed to stay under the same roof for a temporary period, until they could arrange their alternate place of residence. But the Opposite Party No.2 and her husband, did not vacate the house and started creating disturbances. Despite several requests made to the Opposite Party No.2 and her husband, they did not vacate the house and as a result of which the Petitioners no. 1 to 3 filed a Civil Suit bearing C.S. (I) No.606/2020 before the learned Civil Judge, Senior Division, Court, Cuttack seeking a declaration and permanent injunction against their brother - Abdul Siraj (husband of the Opposite Party No 2 in CRLMC No. 415 of 2025). The FIRs were filed during pendency of the Civil Suit. Pursuant to a settlement between the parties, a memorandum of settlement dated 30.8.2024 was filed in the suit and the suit has been decreed. The memorandum of settlement and judgment in C.S. No. 606 of 2020 have been annexed to the CRLMCs.

PREVIOUS ORDERS OF THIS COURT

4. On 30.04.2025, in CRLMC No. 415 of 2025, it had been observed as follows : -

"2. Mr. Nalini Kanta Dash, learned counsel for the petitioner submits that the petitioners are related to each other as well as the informant and on account of civil dispute and a small misunderstanding, the FIR has been lodged. He also submits that Dargha Bazar P.S. Case No. 133 of 2024 had been registered against Taranu Begum-opposite party no.2 in this case and others on the same day. But in the meanwhile due to intervention of their relatives and well-wishers, the matter has been settled. He further submits that a Civil Suit No. 606 of 2020 has been filed by petitioner nos.1 to 3 against the petitioner in CRLMC No. 422 of 2025 and the same has been decreed in terms of the compromise between the parties. He further submits that the matter has been settled between the petitioners in CRLMC No. 415 of 2025 and CRLMC No. 422 of 2025 and as they are related to each other, the proceedings in G.R. Case No. 742 of 2024 may be quashed.

3. Mr. Ranjan Kumar Nayak, learned counsel submits that he has instruction to appear on behalf of the informant and shall file Vakalatnama by Friday (02.05.2025) along with an affidavit.

4. Considering the said submission, list this case on 03.05.2025 along with CRLMC No. 422 of 2025 and affidavits if any."

5. The affidavits were filed in both CRLMC no. 415 of 2025 and CRLMC 422 of 2025, for which on 05.05.2025, this Court had directed the learned State Counsel in both the CRLMCs to obtain instruction through the IIC of Dargha Bazaar Police Station, if the matters had been settled between the parties and they were living in peace and harmony.

6. The relevant portion of the order passed on. 05.05.2025 in CRLMC No 415 of 2025 is extracted below : -

"2. Pursuant to the order dated 30.04.2025, the informant-opposite party no.2 has filed an affidavit stating that on account of civil dispute between the accused persons and her family member, F.I.R. had been lodged but at present they are having a cordial relation and peace and harmony is prevailing amongst them for which she does not want to proceed with the criminal case against her brother-in-law, sister-in-law and nephew. He further submits that the petitioners in response to the notice under Section 41-A of the Cr.P.C., have executed bond for their appearance.

3. Copy of the affidavit is served on Mr. U.R. Jena, learned Additional Government Advocate to enable him to obtain instructions from the IIC, Dargha Bazar, Cuttack regarding the settlement between the parties and if they are living in peace and harmony."

7. The relevant portion of the order passed on. 05.05.2025 in CRLMC No 422 of 2025 is extracted below : -

"2. Pursuant to the order dated 30.04.2025, affidavit has been filed by the opposite party no.2-informant stating that F.I.R. had been lodged against her middle son and his wife and their in-laws on account of civil dispute between her sons which has been resolved. At present they are having a cordial relation and living in peace and harmony for which she does not want to proceed with the criminal case against her middle son, his wife and his in-laws. He further submits that the petitioners in response to the notice under Section 41-A of the Cr.P.C., have executed bond for their appearance.

3. Copy of the affidavit is served on Mr. U.R. Jena, learned Additional Government Advocate to enable him to obtain instructions from the IIC, Dargha Bazar, Cuttack regarding the settlement between the parties and if they are living in peace and harmony."

8. The IIC, Dargha Bazaar Police vide its report dated 12.05.2025 has stated that the civil dispute has been resolved and are maintaining cordial relation and there

is peace and harmony between them. The report dated 12.05.2015 which is filed in Court is taken on record. It shall be scanned and incorporated in the digital record by the Registry. Affidavits were genuine and dispute between the parties has been settled and they are living peacefully .

SUBMISSIONS

9. Mr. Nalini Kanta Dash, learned counsel appearing for the Petitioners in CRLMC No. 415 of 2020 and Opposite Party No.2 in CRLMC No. 422 of 2025 submits that the parties are related to each other. There was a civil dispute between them relating to a residential house. Thereafter, on the intervention of their elderly relations, the parties have amicably resolved their inter se dispute, and as a consequence thereof, a consent decree dated 24.08.2024 has been recorded before the learned Civil Judge (Senior Division), Cuttack, in C.S. (I) No. 606 of 2020. Opposite party No.2-informant along with her husband, has moved out of the house and is now residing separately from the Petitioners. As a result peace and tranquillity is prevailing among the parties and Opposite Party No.2 does not want to proceed in the case against the Petitioners.

10. Mr. R. K. Nayak, learned counsel for the Petitioner in CRMC No. 422 of 2025 and the Opposite Party No.2 in CRLMC No 415 of 2025, makes the same submission regarding settlement.

11. Both counsel submit that in view of the fact of settlement, the informants have no objection if the two proceedings are quashed and the proceedings may be quashed in the interest of justice. It is further submitted that, in light of the amicable settlement reached between the parties and the prevailing peace and harmony, the continuation of the criminal proceedings would serve no useful purpose. In fact if the proceedings are not quashed, the dispute which has been amicably resolved, may get revived.

12. Considering the said submissions of the learned counsel and the orders dated 30.04.2025 and 05.05.2025 and the joint affidavit by parties, it is evident that the parties are related to each other. The two criminal proceedings were initiated because of civil dispute between the parties. This dispute has been amicably resolved and the civil suit has been decreed. In the affidavits, informants have expressed no objection to quashing of the two proceedings. The report of the IIC, Dargha Bazaar Police Station confirms such amicable settlement and that the parties are staying in harmony. In light of the prevailing peace between the parties and the absence of any further grievance, I am of the view that continuation of the proceedings would serve no useful purpose. Rather valuable time and resources of the Court may be wasted if the proceedings are allowed to continue. Therefore, it would be in the interest of justice if both the proceedings are quashed.

13. In view of the nature of dispute and amicable settlement between the parties, the proceeding in G.R. Case No. 742 of 2024 arising out of Dargha Bazar P.S. Case No. 130 of 2024 and the proceeding in G.R. Case No. 739 of 2024

arising out of Dargha Bazar P.S. Case No. 133 of 2024, both pending in the Court of the learned JMFC-II (cog. taking), Cuttack are quashed.

14. CRLMC No. 415 of 2025 and CRKMC No. 422 of 20025 are accordingly allowed and disposed of.