

(2026) 02 OHC CK 1734

In the Orissa High Court

Case No : Criminal Miscellaneous Petition No. 122 Of 2026

Chaturi Naik

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 12-02-2026

Acts Referred:

Constitution Of India, 1950 — Article 226
Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 23, 173(1)
Code Of Criminal Procedure, 1973 — Section 154, 154(3), 156(3), 200, 482

Citation : (2026) 02 OHC CK 1734

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : Rabi Narayan Mohanty, Raj Bhushan Dash

Final Decision : Disposed Of

Judgement

Savitri Ratho, J

1. This CRLMP has been filed with the prayer to direct the IIC, Gopal Prasad Police Station to register the written complaint of the petitioner as FIR and investigate into the matter and complete the same as per law and direct the concerned authorities to take appropriate action to bring the Opp. Party No.4 & 5 into court of justice under relevant provisions of BNS and pass any order which may deem fit and proper in the interest of justice, equity and good conscience.

FACT OF THE CASE IN BRIEF

2. The grievance of the petitioner in short is that she is the owner of a piece of land under Khata No. 129 stands recorded in the name of one Radhika Nayak and after death of the original recorded tenant, the petitioner being her sole legal heir became the absolute owner of the land and after her marriage stayed there with her family. But recently the MCL acquired the landed property in village Ekadala, but no compensation was paid to the petitioner nor any benefits were given to the petitioner and her family such as employment benefit, monetary

compensation etc. So the petitioner has sent various representations to higher Authorities requesting to pay the compensation for her land along with all the relevant documents such as legal heir certificate, Identity proof, etc. But on 31.10.2025, the MCL authority came to the land of the petitioner and started illegally demolishing her residential house without any prior notice. When she and her family members requested the MCL authorities not to demolish their house, the MCL authority assaulted them mercilessly and also abused them in obscene languages in public aspersing to their caste and also assaulted her daughter-in-law and tore her clothes with intent to outrage her modesty. And finally they forcefully and illegally demolished the house of the petitioner consisting of 5 rooms worth Rs.12 lakhs and destroyed the household articles of the petitioner worth Rs.4 lakhs. Though the petitioner immediately approached the Gopal Prasad police station with a written report, but the local police did not receive her written complaint. Thereafter, the petitioner sent her complaint to the IIC, Gopalprasad Police Station through speed post on the same day and although her complaint has been received by the IIC on 10.01.2026, but no FIR has been registered till date. On the same day the petitioner has sent her complaint to the Superintendent of Police, Angul, DG of Police, Odisha and the National Commission for Scheduled Caste of India through speed post seeking necessary action.

SUBMISSIONS

3. Mr. Mohanty, learned counsel for the petitioner submitted that although it is mandatory for the police to register an FIR if the complaint discloses cognizable offences; referring to Section-173(1) of the Bharatiya Nagarik Suraksha Sanhita, 23(BNSS) and also to provide a copy of the information as recorded under Section 173(1) of the BNSS to the informant, but the IIC, Gopal Prasad Police station and the Superintendent of Police, Angul have committed negligence denying justice to the petitioner. The said negligence is contrary to the law and attracts punishment.

4. Mr. Mohanty, learned counsel for the petitioner also relies on the decisions of the Supreme Court in the case of Lalita Kumari vs. State of UP : AIR 2014 SC 187 and Kodungallur Film Society vs. Union of India : (2018) 10 SCC 713 360.

JUDICIAL PRONOUNCEMENT

5. In the case of Sakiri Basu vs. State of UP and others reported in (2008) 2 SCC 409, this Court has held as follows;

"24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and /or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we

are of the opinion that they are implied in the above provision.

25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 Cr.P.C. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters, and relegate the petitioner to his alternating remedy, firstly under Section 154(3) and Section 36 Cr.P.C. before the concerned police officers, and if that is of no avail, by approaching the concerned Magistrate under Section 156(3).

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27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.

In the case of *Lalita Kumari vs. Govt. of UP* reported in (2014) 2 SCC 1, this Court has held as follows; "111) In view of the aforesaid discussion, we hold:

- i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
- ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.
- iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.
- iv) The police officer cannot avoid his duty of registering offence if cognizable

offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case.

The category of cases in which preliminary inquiry may be made are as under:

a) Matrimonial disputes/ family disputes

b) Commercial offences

c) Medical negligence cases

d) Corruption cases

e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."

In the case of *Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and Others*; 2016 (6) SCC 277, the Supreme Court has held as follows:

"3. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) CrPC and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.

4. In view of the settled position in Sakiri Vasu case, the impugned judgment¹ of the High Court cannot be sustained and is hereby set aside. The Magistrate concerned is directed to ensure proper investigation into the alleged offence under Section 156(3) CrPC and if he deems it necessary, he can also recommend to the SSP/SP concerned a change of the investigating officer, so that a proper investigation is done. The Magistrate can also monitor the investigation, though he cannot himself investigate (as investigation is the job of the police). Parties may produce any material they wish before the Magistrate concerned. The learned Magistrate shall be uninfluenced by any observation in the impugned order of the High Court.”

Kodungallur Film Society (supra) was a case where the Supreme Court laid down in guidelines to effectuate the modalities for preventive action and adding teeth to enquiry and investigation and for assessing damages wherever a mass destruction to property takes place due to protests. It is not relevant for deciding this CRLMP.

ANALYSIS AND CONCLUSION

6. I find that only one page of the written complaint has been annexed to the CRLMP. That apart, the learned counsel has not produced the copies of the decisions on which he relies upon. The decisions were however downloaded and perused.

7. There is no dispute that where a complaint/information submitted to the police discloses a cognizable offence, a case should be registered and investigation conducted.

8. But where the police fails to register a case, the complainant has the remedy of approaching the Magistrate under the Cr.P.C. and now under the BNSS.

9. So, after hearing learned counsel for the petitioner and perusing the CRLMP and its annexures and in view of the decisions of the Supreme Court referred to above, I am not inclined to issue any direction to the Opposite Parties for registration of a case, in exercise of power under Article 226 of the Constitution of India.

10. The CRLMP is disposed of observing that, if the petitioner is so advised she may avail the alternate remedy which is available to her under law

11. With this observation, the CRLMP is disposed of.

12. Urgent certified copy of this order be granted on proper application.