
(2008) 08 OHC CK 0101
In the Orissa High Court

Jasobant Narayan Mohapatra and Others	APPELLANT
Vs	
State of Orissa and Others	RESPONDENT

Date of Decision : 20-08-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 482
Penal Code, 1860 (IPC) — Section 107, 108, 109, 110, 111
Prevention of Corruption Act, 1988 — Section 11, 12, 13, 19, 7

Citation : (2008) CLT 1181 (Suppl CrI) : (2009) CriLJ 1043 : (2008) 2 OLR 661

Hon'ble Judges : B.K. Patel, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.K. Patel, J.—This revision is directed against that part of the impugned order dated 22.06.2007 passed by the learned Special Judge (Vigilance), Balasore in T.R. No. 95 of 2007 by which charge for commission of offences u/s 12 of the Prevention of Corruption Act (in short "P.C. Act") and u/s 201 of the Indian Penal Code (in short "I.P.C") has been framed against the petitioners. By the impugned order charge for commission of offences under Sections 7, 12 and 13(2) of the P.C. Act and Section 201 of the I.P.C. also has been framed against co-accused Nrusingha Charan Rath.

2. Brief facts of the case relevant for this revision are as follows:

On the written report of complainant-decoy Ananta Kumar Padhi alleging demand for bribe of Rs. 100/- by co-accused Nrusingha Charan Rath, who was working as A.S.I, of Police, Aradi Out post under Dhusuri Police Station, Balasore, Vigilance P.S. Case No. 12 of 1998 was registered on 03.05.1998. The bribe was stated to be demanded by the co-accused in order to take action on a written report lodged by the complainant earlier. In course of investigation into the Vigilance P.S. Case No. 12 of 1998, the co-accused was trapped in the evening on 05.05.1998 by the Vigilance Police Officers in the Out Post after he received Rs. 100/- from the complainant-decoy. After the trap, the complainant left for his

house. It is alleged that the petitioners, who were working respectively as the Officer-in-Charge of Dhusuri Police Station, the A.S.I. of Police of Dhusuri Police Station and the Circle Inspector of Police of Bhadrak (R) during that period, brought the complainant from his house to Police Station where he was assaulted and kept inside the lock up in the night.

3. It is also alleged that the petitioners pressurized and persuaded the complainant for compromise of the Vigilance case, and for that purpose a false case bearing Dhusuri P.S. Case No. 37 of 1998 was registered against the complainant for alleged commission of offences under Sections 448, 323, 294 and 354 of the I.P.C. It is alleged that commission of above acts by the petitioners and registration of Dhusuri P.S. Case No. 37 of 1998 against the complainant were in order to screen the co-accused from legal punishment in the Vigilance case, and that the petitioners abetted the offence of acceptance of bribe by the co-accused. On completion of investigation, charge-sheet was accordingly placed against the petitioners and the co-accused under Sections 13(2) read with 13(1)(d)/7 of the P.C. Act and Sections 201/109/34 of the I.P.C. The learned Court below, upon hearing rival contentions, passed the impugned order)

4. In assailing the legality of the impugned order, it is submitted by the learned Counsel for the petitioners that even if the allegations against the present petitioners are accepted on face value, such allegations do not constitute offences punishable under either Section 12 of the P.C. Act or Section 201 of the I.P.C. Referring to the statutory requirements for commission of offences punishable u/s 12 of the P.C. Act and u/s 201 of the I.P.C. as well as judicial pronouncements, it is argued that there is no scope to array the present petitioners as accused persons along with the co-accused in the Vigilance case on the allegation that the petitioners either abetted the commission of any of the offences under which the co-accused stands charged or caused any evidence of the commission of any of the offences under which the co-accused stands charged to disappear with the intention of screening the co-accused from legal punishment.

The learned Counsel appearing for the Vigilance Department vehemently assails the maintainability of the revision against an order of framing charge which is asserted to be an interlocutory order. It is further argued that the petitioners pressurized the complainant by instituting criminal case on false allegations to compromise with co-accused in the Vigilance case and, therefore, are liable to be prosecuted not only for abetment of the offences for which the co-accused stands charged but also for offence of causing disappearance of evidence to screen the co-accused from legal punishment.

5. Objection of the learned Counsel for the Vigilance Department to the maintainability of the revision is based on the bar contained in Section 397(2) of the Cr.P.C. and Section 19(3)(c) of the P.C. Act to the effect that the powers of revision shall not be exercised in relation to any interlocutory order. The

objection is, therefore, required to be considered upon appreciation of the nature of embargo contained in the above provisions. In this context, it is pertinent to refer to the observations in *Bhaskar Industries Ltd. v. Bhiwani Denim and Apparels Ltd.* and Ors. 2001 (II) OLR (SC) 613. It was observed:

8. The interdict contained in Section 397(2) of the Code of Criminal Procedure (for short "the Code") is that the powers of revision shall not be exercised in relation to any interlocutory order. Whether an order is interlocutory or not, cannot be decided by merely looking at the order or merely because the order was passed at the interlocutory stage. The safe test laid down by this Court through a series of decisions is this : if the contention of the petitioner who moves the superior Court in revision, as against the order under challenge is upheld, would the criminal proceeding as a whole culminate ? If they would, then the order is not interlocutory in spite of the fact that it was passed during any interlocutory stage.

9. A Three-Judge Bench of this Court in *Madhu Limaye Vs. The State of Maharashtra*, , laid down the following test:

[A]n order rejecting the plea of the accused on a point which, when accepted, will conclude the particular proceeding, will surely be not an interlocutory order within the meaning of Section 397(2).

10. The above position was reiterated in *Rajendra Kumar Sitaram Pande and Etc. Vs. Uttam and Another*, . Again in *K.K. Patel and Another Vs. State of Gujarat and Another*, this Court stated thus:

It is now well-nigh settled that in deciding whether an order challenged is interlocutory or not as for Section 397(2) of the Code, the sole test is not whether such order was passed during the interim stage vide *Amar Nath and Others Vs. State of Haryana and Another*, , *Madhu Limaye v. State of Maharashtra*, *V.C. Shukla v. State through CBI and Rajendra Kumar Sitaram Pande v. Uttam*. The feasible test is whether by upholding the objections raised by a party, it would result in culminating the proceedings, if so any order passed on such objections would not be merely interlocutory in nature as envisaged in Section 397(2) of the Code. In the present case, if the objection raised by the appellants were upheld by the Court the entire prosecution proceedings would have been terminated. Hence, as per the said standard, the order was revisable.

6. In *Poonam Chand Jain and Anr. v. Fazru* 2005 (I) OLR (SC) 1 also the scope and ambit of the expression "interlocutory order" appearing in Section 397(2) of Cr.P.C. were considered. It was observed:

13. Learned Counsel for the respondent submitted that the order to issue process is an interlocutory order, and therefore revision before the Additional Sessions Judge was not maintainable. Learned Counsel for the appellants with reference to certain observations in *Rajendra Kumar Sitaram Pande and Ors. v. Uttam and Anr.* (1993) (3) SCC 134 and *K.K. Patel and Another Vs. State of*

Gujarat and Another, submitted that this Court has held that issuance of process or charges is not an interlocutory order. In both these cases reference was made to M.N. Dodamani and Others Vs. U.S.D. Walikar (Dead) by Lrs and Others, to hold that framing of charge is not an interlocutory order. The decision in V.C. Shukla's case (supra) was rendered in the background of the special statute applicable and it is clearly stated in para 47 to be so. In any event, that question is academic as the High Court did not interfere with the order passed by the Additional Sessions Judge on the ground that the revision was not maintainable in view of the prescription in Section 397(2) of the Code. Undisputedly, in a given case Section 482 of the Code can be pressed into service. It was held by this Court in Pramatha Nath's case (supra). Further, in Subramaniam's case (supra) as noted above, it was observed that issuance of process is a preliminary step in the stage of trial. In V.C. Shukla's case itself the distinction between cases covered by the Code and the special Statute governing that case, as noted above, has been clearly indicated. It was *inter alia*, observed as follows:

To sum up, the essential attribute of an interlocutory order is that it merely decides some point or matter essential to the progress of the suit or collateral to the issues sought but not a final decision or judgment on the matter in issue. An intermediate order is one which is made between the commencement of an action and the entry of the judgment. Untwalia, J. in the case of Madhu Limaye Vs. The State of Maharashtra, clearly meant to convey that an order framing charge is not an interlocutory order but is an intermediate order as defined in the passage, extracted above, in *Corpus Juris Secundum*, Vol.60. We find ourselves in complete agreement with the observations made in *Corpus Juris Secundum*. It is obvious that an order framing of the charge being an intermediate order falls squarely within the ordinary and natural meaning of the term "interlocutory order" as used in Section 11(1) of the Act. Wharton's Law Lexicon (14th Edn. P.529) defines interlocutory order thus:

an interlocutory order or judgment is one made or given during the progress of an action, but which does not finally dispose of the rights of the parties.

Thus, summing up the natural and logical meaning of an interlocutory order, the conclusion is inescapable that an order which does not terminate the proceedings or finally decides the rights of the parties is only an interlocutory order. In other words, in ordinary sense of the term, an interlocutory order is one which only decides a particular aspect or a particular issue or a particular matter in a proceeding, suit or trial but which does not however conclude the trial at all. This would be the result if the term interlocutory order is interpreted in its natural and logical sense without having resort to Criminal Procedure Code, or any other statute. That is to say, if we construe interlocutory order in ordinary parlance it would indicate the attributes, mentioned above, and this is what the term interlocutory order means when used in Section 11(1) of the Act.

This case was following the case of Mohd. Amin Bros v. Dominion of India AIR 1950 SC 139 where it was held that so far as this Court is concerned the

principles laid down in AIR 1949 1 (Federal Court) settled the law. In this connection, in the aforesaid cases, Mukherjee, J., speaking for the Court observed as follows:

The expression "final order" has been used in contradistinction to what is known as "interlocutory order" and the essential test to distinguish the one from the other has been discussed and formulated in several cases decided by the Judicial Committee. All the relevant authorities bearing on the question have been reviewed by this Court in their recent pronouncement in *S. Kuppaswami's case* (supra) and the law on point, so far as this Court is concerned, seems to be well settled. In full agreement with the decisions of the Judicial Committee in *Ramchand Manjimal v. Goverdhandas Vishandas* 1920(47) IA 124 and *Abdul Rahman v. D.K. Cassim and Sons* AIR 1939 PC 58 and the authorities of the English Courts upon which these pronouncements were based, it has been held by this Court that the test for determining the finality of an order is, whether the judgment or order finally disposed of the rights of the parties.

Thus, the Federal Court in its decision seems to have accepted two principles, namely:

- (1) that a final order has to be interpreted in contradistinction to an interlocutory order; and
- (2) that the test for determining the finality of an order is whether the judgment or order finally disposed of the rights of the parties.

Thus, summing up the entire position the inescapable conclusion that we reach is that giving the expression "interlocutory order" its natural meaning according to the tests laid down, as discussed above, particularly in *Kuppaswami's case* (supra) and applying the non obstinate clause, we are satisfied that so far as the expression "interlocutory order" appearing in Section 11(1) of the Act is concerned, it has been used in the natural sense and not in a special or a wider sense as used by the code in Section 397(2). The view taken by us appears to be in complete consonance with the avowed object of the Act to provide for a most expeditious trial and quick dispatch of the case tried by the Special Court, which appears to be the paramount intention in passing the Act.

7. In *Kamaljit Singh v. State of Orissa* 55 (1983) C.L.T. 565, a Division Bench of this Court categorically held that an order framing a charge is not an interlocutory order. It was held:

2. In the case of *Khired alias Khirodra Debtata v. State of Orissa*, after referring to and relying on the principles laid down by the Supreme Court, this Court and other High Courts in a number of reported cases including *Mohanlal Maganlal Thakur v. State of Gujrat*, *Amar Nath v. State of Haryana*, *Madhu Limaye v. State of Maharashtra*, *V.C. Shukla v. State through C.B.I. P. Chiranjivi v. Principal, M.K.C.G. Medical College, Berhampur*, *Mohanlal Devanbhai Chokshi v. J.S. Wogh, Jhaveri v. Shella Dadlani and Dattatraya Narayan Samant v. State of Maharashtra*,

this Court held that an order framing a charge under the Code is not an interlocutory order within the meaning of Section 397(2) of the Code and therefore, a criminal revision lies against such an order. The present revision against the order framing a charge against the petitioner is, therefore competent and maintainable.

8. In any event, Section 482 of the Cr.P.C. preserves the inherent powers of the High Court, *inter alia*, to prevent abuse of process of any Court or otherwise to secure the ends of justice. While analyzing the embargo contained u/s 397(2) of the Cr.P.C. and the ambit of inherent power of the High Court contemplated u/s 482 Cr.P.C, the Apex Court made reference also to prosecutions under the P.C. Act to hold that the embargo will not operate to prevent the abuse of process of any Court and/or to secure the ends of justice in *Madhu Limaye Vs. The State of Maharashtra*, wherein it was held:

10. As pointed out in *Amar Nath and Others Vs. State of Haryana and Another*, the purpose of putting a bar on the power of revision in relation to any interlocutory order passed in an appeal, inquiry, trial or other proceeding is to bring about expeditious disposal of the cases finally. More often than not, the revisional power of the High Court was resorted to in relation to interlocutory orders delaying the final disposal of the proceedings. The Legislature in its wisdom decided to check this delay by introducing Subsection (2) in Section 397. On the one hand, a bar has been put in the way of the High Court (as also of the Sessions Judge) for exercise of the revisional power in relation to any interlocutory order, on the other, the power has been conferred in almost the same terms as it was in the 1898 Code. On a plain reading of Section 482, however, it would follow that nothing in the Code, which would include Subsection (2) of Section 397 also, "shall be deemed to limit or affect the inherent powers of the High Court." But, if we were to say that the said bar is not to operate in the exercise of the inherent power at all, it will be setting at naught one of the limitations imposed upon the exercise of the revisional powers. In such a situation, what is the harmonious way out? In our opinion, a happy solution of the problem would be to say that the bar provided in Sub-section of Section 397 operates only in exercise of the revisional power of the High Court, meaning thereby that the High Court will have no power of revision in relation to any interlocutory order. Then in accordance with one or the other principles enunciated above, the inherent power will come into play, there being no other provision in the Code for the redress of the grievance of the aggrieved party. But then if the order assailed is purely of an interlocutory character which could be corrected in exercise of the revisional power of the High Court under the 1898 Code, the High Court will refuse to exercise its inherent powers. But in case the impugned order clearly brings about a situation which is an abuse of the process of the Code or for the purpose of securing the ends of justice, interference by the High Court is absolutely necessary, then nothing contained in Section 397(2) can limit or affect the exercise of the inherent power by the High Court. But such cases would be few and far between. The High Court must exercise the inherent

power very sparingly. One such case would be the desirability of the quashing of a criminal proceeding initiated illegally, vexatiously or as being without jurisdiction. Take for example a case where a prosecution is launched under the Prevention of Corruption Act without a sanction, then the trial of the accused will be without jurisdiction and after his acquittal a second trial after proper sanction will not be barred on the doctrine of *Autrefois Acquit*. Even assuming, though, we shall presently show that it is not so, that in such a case an order of the Court taking cognizance or issuing process is an interlocutory order, does it stand to reason to say that inherent power of the High Court cannot be exercised for stopping the criminal proceeding as early as possible, instead of harassing the accused up to the end ? The answer is obvious that the bar will not operate to prevent the abuse of the process of the Court and/or to secure ends of justice. The label of the petition filed by an aggrieved party is immaterial. The High Court can examine the matter in an appropriate case under its inherent powers. The present case undoubtedly falls for exercise of the power of the High Court in accordance with Section 482 of the 1973 Code, even assuming, although not accepting, that invoking the revisional power of the High Court is impermissible.

9. Interlocutory order has been defined neither in the Cr.P.C. nor in the P.C. Act. The decisions cited above clearly indicate that an order may be final for one purpose and interlocutory for another and final as to part and interlocutory as to part. Any order which substantially affects rights of the accused or decides certain rights of the parties cannot be said to be interlocutory order so as to bar a revision against that order. An order which is an order of moment for an accused does not come within the ambit of interlocutory order so far as that accused is concerned. In the present case, charge framed against the petitioners are challenged not on the ground that there is insufficient evidence or material to support the charge. The charge is assailed as illegal and without material basis on the contention that even if allegations made against the petitioners are accepted on face value, there is no *prima facie* case allowing scope to frame charge u/s 12 of the P.C. Act and Section 201 of the I.P.C. Such being the nature of challenge made against the impugned order, obviously in case the question raised in the revision is answered in the affirmative, the prosecution against the petitioners is liable to be terminated bringing finality to the proceeding so far as it relates to the present petitioners. Therefore, there is no merit in the preliminary objection raised against maintainability of the revision. The impugned order is not an interlocutory order and the embargo contained u/s 397(2) of the Cr.P.C. and Section 19(3)(c) of the P.C. Act, not to exercise powers of revision in relation to an interlocutory order, is not applicable to this revision assailing the order of framing charge.

10. Charge against the petitioner u/s 12 of the P.C. Act provides for punishment for abetment of offences defined in Sections 7 or 11 of the P.C. Act. Section 12 of the P.C. Act reads:

Whoever abets any offence punishable u/s 7 or Section 11 whether or not that

offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months, but which may extend to five years and shall also be liable to fine.

11. It is alleged that the petitioners abetted the commission of offence by the co-accused of taking gratification other than legal remuneration in the form of bribe for taking action in respect of the complainant's earlier report. The word "abetment" has not been defined in the P.C. Act. In order to appreciate what constitutes "abetment", reference has to be made to the provisions under Sections 107 to 109 of the I.P.C.

Section 107 of the I.P.C. laying down definition of "abetment of a thing" reads:

A person abets the doing of a thing, who--

First - Instigates any person to do that thing; or

Secondly- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly- Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2 - Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Section 108 of I.P.C. laying down the definition of "abettor" reads:

A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Section 109 of the I.P.C. providing for punishment of abetment reads:

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation - An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

12. A plain reading of Sections 107 to 109 of the I.P.C. would show that act

complained of in order to amount to abetment has to be committed either prior to or at the time of commission of the offences. In *Hazari Lal v. Emperor* AIR 1921 Pat 286, it has been held:

Abetment by aiding or instigating necessarily means some active suggestion or support or stimulation to the commission of the offence itself. If the offence had already been complete before anything was done by the alleged abettor, any subsequent action of his which might, in any way, help the main offender, will not be abetment which Section 107, being an accessory after the fact which is no offence under the Indian Law.

13. In *G. Ananthachari* AIR 1938 Mad 996, it has been held that the mere omission on the part of a public servant to bring to the notice of the higher authorities the offences committed, does not amount to abetment of offence.

14. In *Benupani Behera Vs. State of Orissa*, the parameters of offence of abetment have been explained by our own High Court. It has been held:

Section 109 IPC comes into operation if there is abetment of an offence. Section 107 deals with abetment of a thing. Abetment under the provision involves active complicity on the part of the abettor at a point of time prior to actual commission of offence. It is essence of crime, of abetment that the abettor should substantially assist the principal culprit towards commission of offence. Concurrence in the criminal acts of another without such participation therein as helps to effect the criminal act or purpose does not per se become culpable. Mere negligence in an act also does not bring in a person within the purview of the offence of abetment. An act of abetment may take place in one of the three ways: (i) instigation, (ii) conspiracy or (iii) intentional aid. Expression "abettor" has been defined in Section 108, IPC to mean a person who abets either commission of an offence, or commission of an act which would be an offence if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor. Offence of abetment depends upon intention of a person who abets and not upon knowledge or intention of the person he impels to act for him. Intention to aid commission of the crime is the gist of offence of abetment and in the absence of necessary intention, such offence is not made out. Liability of an abettor of a crime is generally co extensor with the principal offender.

For the application of Section 109, three essential features must exist, that is, (a) there must be abetment of an offence, (b) the act abetted must have been committed in consequence of the abetment, and (c) there must be no express provision made in the IPC for the punishment of such abetment. Such express provision is made in Sections 110 to 123, 130, 132, 133, 134, 136 and 139 IPC. There is no evidence of instigation or conspiracy in the case at hand. Therefore only question is, whether petitioner intentionally aided the acts of impersonation and cheating.

From the evidence on record, it is seen that petitioner was posted at Lamtaput

shortly before the alleged date of occurrence, Except the act of identification, no other overt act is attributed to him. It was his specific case that being new, he did not want to take the risk of identification but on being told by the Zone Officer, he identified the crime. It should be to aid an offence or to facilitate commission of an offence. Mere giving of aid will not be sufficient to attract culpability if the person who gives aid did not know that an offence was being committed or contemplated. The language used in Sections 107 and 109 is "intentionally aids". As observed by the Supreme Court in *Shri Ram Vs. The State of U.P.*, , in order to constitute abetment, the abettor must be shown to have "intentionally" aided to commission of the crime. Mere proof, that the crime charged could not have been committed without involvement and/or interposition of the alleged abettor is not enough compliance with the requirements of Section 107. It is not enough that an act on the part of the alleged abettor happens to facilitate the commission of the crime. Intentional aiding and therefore active complicity is the gills of the offence of abetment under the third paragraph of Section 107. No evidence has been brought on record to establish that the petitioner had requisite knowledge that a criminal act was being committed or was contemplated. In the absence of evidence, there is no scope for fastening culpability u/s 109 IPC.

15. In *Joseph Kurian Philip Jose Vs. State of Kerala*, , it has been held that roles of the perpetrator and abettor of the crime are distinct, standing apart from each other. When charge against a person for commission of a substantive offence could not be established, he cannot lopsidedly be taken to have answered the charge for commission of abetment of the same offence.

16. In the present case, admittedly, detection with regard to the offence alleged to have been committed by the co-accused u/s 7 of the P.C. Act was completed before 10.45 P.M. on 5.5.1998. Thereafter, the complainant was dropped in his house in the midnight. The acts alleged against the petitioners constituting offence of abetment are stated to have taken place thereafter only. In such circumstances, it is rightly pointed out that the statutory dispensations in India, as available u/s 12 of the PC Act read with Section 107 to 109 of the IPC, do not permit implication of the petitioners with the offence of abetment of commission of offence u/s 7 of the co-accused. Commission of offence u/s 7 of P.C. Act by the co-accused had already been completed long before the petitioners are accused of commission of the alleged acts constituting abetment.

Now coming to the charge u/s 201 I.P.C. framed against the petitioners, reference is required to be made to the provision thereunder. Section 201 of the IPC which provides for punishment for "Causing disappearance of evidence of offence or giving false information to screen offender" reads:

Whoever knowing or having been reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which knows or believes to

be false, is liable to be punished as provided thereunder.

17. In the present case, allegations against the petitioned do not relate to giving of any false information. It is alleged that they caused disappearance of evidence with intention of screening co-accused from legal punishment for the offences committed by him. The acts alleged to constitute commission of offences u/s 201 IPC are that the petitioners implicated the complainant-decoy in a false case, took him to police station, assaulted him and pressurized him to compromise with the co-accused in the vigilance case. Even if the entire allegations are accepted, there is no indication that the petitioners caused disappearance of any evidence.

18. In Harbans Lal Vs. The State, , it has been pointed that the ingredients of an offence u/s 201 I.P.C. are firstly, that an offence was committed; secondly, that the accused knew or had reason to believe that such an offence had been committed; thirdly, that he caused the evidence other of to disappear; and fourthly, that he caused disappearance of the evidence with the intention of screening the offender from legal punishment. Disappearance of the evidence will be caused if the evidence ceases to be visible or to be traceable. In Harbans Lal (supra), it was held that mere removal of the dead body from the place of occurrence and hanging it on a tree in an open place does not amount to causing of disappearance of offence.

19. In the present case, even though it is alleged that the petitioners committed acts which constitute offence u/s 201 of the I.P.C., admittedly a case was registered against the complainant in connection with the investigation of which the decoy - complainant in the Vigilance case is stated to have been taken to police station. It is alleged that in course of such investigation, the petitioners exerted pressure on him to compromise in the Vigilance case with the co-accused. The culpable acts alleged against the petitioners may constitute other offences. But pursing or pressurizing to compromise does not in any manner have the effect of disappearance of evidence already collected in the Vigilance case. Therefore, implication of the petitioners u/s 201 I.P.C. also is misconceived and not tenable in law.

20. To sum up, for the reasons stated above, there is no merit in the contentions raised on behalf of the State that the revision is not maintainable. The materials on record do not justify framing of charges against the petitioners for alleged commission of offences u/s 12 of the P.C. Act and Section 201 of the I.P.C.

Therefore, that part of the impugned order passed by the learned Special Judge (Vigilance), Balasore by which charge for commission of offences u/s 12 of the P.C. Act and Section 201 I.P.C. has been framed against the petitioners as well as the proceeding against the petitioners are quashed. The revision is, accordingly, allowed.