
(2008) 11 OHC CK 0045
In the Orissa High Court

Shri Pyarimohan Mohapatra

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 28-11-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 34, 419, 420, 465
Prevention of Corruption Act, 1988 — Section 13, 5

Citation : (2009) CLT 479 (Suppl CrI) : (2009) 1 OLR 319 : (2009) OLR 479 (Suppl CrI)

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

Bench : Single Bench

Final Decision : Allowed

Judgement

B.K. Patel, J.

CRLMC No.2191 of 2008 and Mlic. Case No.1769 of 2008

1. This application u/s 482 Cr.P.C. has been filed for quashing the impugned order dated 29.8.2008 passed in I.C.C. No. 2855 of 2005 by the learned S.D.J.M., Bhubaneswar rejecting the prayer for withdrawal of the complaint petition instituted by the petitioner against opposite parties 2,3 and 4.

2. Mr. B. Panda, counsel for the petitioner as well as learned Counsel for opposite party No. 1 the State, Shri S.C. Mohapatra, learned Counsel for the opposite parties 2 and 4 and Shri A.K. Mohapatra (1), learned Counsel for the opposite party No. 3 were heard.

3. It appears that in the present case opposite parties 2, 3 and 4 are being proceeded for alleged commission of offences under Sections 469/471/500/501/502/34 I.P.C. It also further appears from the depositions of the complainant and his witnesses that dispute between the parties has been settled on compromise. Learned Counsel appearing for the petitioner as well as opposite parties before this Court also urged for quashing of the impugned order

by allowing withdrawal of the complaint case. In this regard, learned Counsel for the petitioner cited two decisions of the Supreme Court in Jagdish Chanana and Ors. v. State of Haryana and Anr. (2008) 40 OLR 381 and Nikhil Merchant v. Central Bureau of Investigation and Anr. (2008) 41 OLR 427. In the aforesaid decisions, it has been observed that as in the light of compromise the criminal proceedings were unlikely to succeed the proceedings should be quashed as continuance thereof after compromise would be a futile exercise. Jagdish Chanana (supra) related to a case in which First Information Report had been registered under Sections 419, 420, 465, 468, 471, 472 and 474 read with 34 I.P.C. and Nikhil Merchant (supra) related to a case in which charge-sheet had been submitted under Sections 120-B read with 420, 467, 468 and 471 I.P.C. read with Sections 5(2) and 5(1)(d) as well as Sections 13(1) read with 13(1)(d) of the Prevention of Corruption Act.

4. In the present case also, since the dispute between the parties has been settled amicably and the complainant does not want to proceed with the case, no fruitful purpose would be served by allowing the proceeding to continue any further. On the other hand, in my considered view, the continuance of the proceeding shall be mere abuse of Court process.

5. I, accordingly, in order to secure the ends of justice, allow the application, quash the impugned order and direct the learned Magistrate to drop the complaint case.

6. The CRLMC and the Misc. Case are disposed of.

7. Urgent/certified copy of the order be granted on proper application.