

(2008) 11 OHC CK 0001

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 711 of 2008

Sri Biswamohan Das

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 14-11-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 409, 420

Citation : (2009) CLT 119 (Suppl CrI)

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

Bench : Single Bench

Advocate : Sangam Kumar Sahoo, for the Appellant; S.C. Mohanty, for Opp.
Party No. 2, for the Respondent

Final Decision : Allowed

Judgement

1. Learned Counsel for the Petitioner and Learned Counsel for the State are present.
2. Sri S.C. Mohanty, Advocate and other filed Vakalatnama executed by C.P. No. 2/Informant.
3. Heard.
4. This application u/s 482 Code of Criminal Procedure. has been filed for quashing the proceeding in G.R. Case No. 1199 of 2005 pending in the Court of Learned S.D.J.M.(S), Baripada taking cognizance of offences under Sections 420 and 409 Indian Penal Code.
5. In course of hearing, Learned Counsel for the informant files an affidavit sworn by the O.P. No. 2/Informant. Upon referring to such affidavit it is submitted by Learned Counsel for the Petitioner and Learned Counsel for the informant that the parties have settled their disputes and the informant does not want to proceed with the case any further as the informant has already received the amount in respect of which allegations under Sections 420 and 409 Indian

Penal Code were made against the Petitioner. It is further submitted that offence u/s 409 being not permissible to be compounded u/s 320 of the Code of Criminal Procedure., the proceeding is required to be quashed as further proceeding would be a futile exercise.

6. Having heard Learned Counsel for the Petitioner and Learned Counsel for the informant, in my considered Judgment, the continuance of the proceeding shall be mere abuse of Court process and it is found just to quash the proceeding.

7. I, accordingly, in order to secure the ends of justice, allow the application and quash the aforesaid proceeding.

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

Appeal allowed.