



THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3943 of 2023

(In the matter of an application under Section 482 of the Code of Criminal Procedure, 1973)

Priya Ranjan Nayak **Petitioner**

-Versus-

State of Orissa & another **Opposite Parties**

For the Petitioner : Mr. Milan Kanungo, Senior Advocate
along with Mr. S. Das, Advocate

For the Opp. Parties : Mr. Bijaya Kumar Ragada,
Additional Government Advocate
(For the Opp. Party No.1)

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 02.08.2024/14.08.2024 : Date of Judgment: 29.10.2024

S.S. Mishra, J. In the present petition, the petitioner has invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. seeking quashing of the F.I.R. in Madhupatna P.S. Case No.75 of 2020 corresponding to G.R. Case No.474 of 2020 for the offences punishable under Sections



353/341/323/294/188 of the IPC read with Section 3 of the Epidemic Diseases Act, 1897 read with Section 177 of the Motor Vehicle Act, 1954 pending in the Court of the learned J.M.F.C. (City), Cuttack.

2. The petitioner is an Engineer working in Accenture Company. He is a 39-year-old young man. He is being impleaded as an accused to face the prosecution for allegedly having committed the offences as mentioned above. During the investigation, the petitioner also entered into a settlement which has been reflected in the petition, which reads as under:

“G. For that, the informant as well as the petitioner has willfully consented to the nullification of this criminal proceeding and the informant has no objection in case the criminal proceeding initiated against the present petitioner is quashed. Hence, the F.I.R. as well as the entire proceeding is liable to be quashed.”

Besides, it is evident that the offence does not involve moral turpitude, or threaten the public order or affect the fabric of the society. Rather, the alleged crime, if any, has been committed by the petitioner during the prevalence of the COVID-19 pandemic was a culmination of stress sans any criminal intent. There is no *mens rea* involved in the present case.



Therefore, the petitioner rightly seeks indulgence of this Court for quashing the proceeding.

3. The allegation in the F.I.R. reads as under:

“On 22.04.2020 at 12.10 P.M. Sri Kamal Sabar (34), son of Sri Rishi Sabar of Mukudipadar, P.S.-Gunupur, District-Rayagada, at present OAPF/328 of Madhupatna PS, Cuttack UPD reported in writing that today, i.e., on 22.04.2020 at 10 AM, while he, along with SI M.M. Biswal, C/399 T. Soren, Hav. K. Ch. Dalai and S/1149 R.N. Palei of 6th OSAP were performing patrolling duty at Press Chhak, he had tried to detain one person in Scooty bearing Registration No. OD 05 AG 4548 having no mask in his face and helmet coming from Press Chhak, but the said Scooty rider did not respond and tried to flee away forcibly. As a result he along with the Scooty rider slipped on the road and they both received bleeding injury on their person. On asking his identity, he disclosed his name as Priyaranjan Nayak, son of Prabanjan Nayak of Netaji Nagar, P.S.- Madhupatna, Cuttack and also abused them in slang languages.”

4. Perusal of the F.I.R. reveals that the petitioner has, in fact, violated the traffic rules by riding the motor cycle without helmet and without wearing the mask as mandatorily required during the pandemic, and in that regard, the concerned authority is free to impose the reasonable amount of fine upon the petitioner. Apart from the last portion of the F.I.R. that he abused the police officials in slang languages, the rest of the F.I.R., in fact, does not attract any offence, as there is no *mens rea*



involved. During the pandemic period, the stress and anxiety suffered by every citizen is quite well-reflected in the conduct of the petitioner and cannot be read into a criminal overt act attributed to him.

5. I have perused the statement of the witnesses recorded under Section 161 of Cr. P.C. All the witnesses to the occurrence are police officials. The statements made by these interested witnesses under Section 161 of Cr. P.C. are the reiteration of the allegation made in the F.I.R.

6. The investigation has already been completed in the present case and the charge sheet has already been filed on 19.07.2020.

7. Mr. B.K. Ragada, learned Additional Government Advocate appearing on behalf of the opposite party No.1-State, submits that after the charge sheet is filed, petition for quashing of the F.I.R. ought not to have been entertained by this Court.

8. I do not agree with the contention of Mr. Ragada, learned Additional Government Advocate, because the petitioner has raised many considerable grounds having ample force in them. Therefore, the present petition of the petitioner can be maintained even at this stage.



9. Regard being had to the fact that the incident had taken place during the lockdown period, there is no ingredient made out insofar as the penal offences are concerned. However, in regard to the offence under Section 3 of the Epidemic Disease, 1897 is concerned, it has lost its force now as the pandemic is over. As it is clear from Section 2 of the Epidemic Diseases Act, 1897 that the said legislation holds the field of enforcement for a limited period of time, i.e., during the continuation of the pandemic. It is also notable that the intention of this legislation is to prevent the outbreak of pandemic diseases, rather than using its provisions for a penal purpose.

10. Therefore, in the aforementioned facts and circumstances of the case and taking into consideration the settlement arrived at by the parties, I am of the opinion that putting the petitioner to trial would unnecessarily affect the valuable time and resources of the learned trial Court. Even otherwise, the trial would be a futile exercise as the prosecution has blink chance in securing conviction on the basis of the material form part of the charge sheet. Therefore, relying upon the judgments of the Hon'ble Supreme Court in the Cases of **Gian Singh**



Vrs. State of Punjab & another reported in **(2012) 10 SCC 303**,
Madhavraoji Wajirao Scindia and another Vrs. Sambajirao Chandrojirao Angre and others reported in **AIR 1988 SC 709** and
B.S. Joshi Vrs. State of Haryana reported in **(2003) 4 SCC 675**, I am inclined to allow the present petition.

11. Therefore, this petition deserves to be allowed. Hence, the F.I.R. in Madhupatna P.S. Case No.75 of 2020 corresponding to G.R. Case No.474 of 2020 pending in the Court of the learned J.M.F.C. (City), Cuttack and the corresponding proceeding arising therefrom stands quashed.

12. The CRLMC is accordingly disposed of.

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(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
The 29th October, 2024/Subhasis Mohanty, Personal Assistant