

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 133 OF 2021

Susanta Kumar Nayak

***..... Petitioner
Mr. B. R. Mohanty, Adv.***

-versus-

State of Odisha

***..... Opposite Party
Miss Sanjibani Mishra, ASC***

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
07.04.2022**

**Order No.
03.**

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. B.R. Mohanty, learned counsel for the petitioner and Miss S. Mishra, learned Additional Standing Counsel for the State.
3. Present application under Section-482 Cr. P.C. is filed at the instance of the petitioner to quash the criminal proceeding in G.R. Case No. 17 of 2012 emanating from Phulbani Town P.S. Case No. 6 of 2012 registered under Section (s) 420/506/34 of the I.P.C pending in the Court of learned S.D.J.M., Phulbani on the stated grounds.
4. An FIR under Annexure-1 was lodged by a group of students with various allegations, such as, the petitioner and co-accused collected Rs.8 Lac from them at the time of admission when the college had not been recognized by the Government. It

was further alleged that the college authority did not return the original certificates and the money received from the students etc.

5. After investigation and its completion, charge sheet under Annexure-2 was filed against the petitioner and another accused. Thereafter, the learned Court below under Annexure-3 took cognizance of offences punishable under Sections 406/420/506 read with 34 of the I.P.C.

6. Though, initially on couple of grounds, the petitioner challenged the criminal proceeding and sought for its discontinuance but then, approached this Court after an amicable settlement was reached at. In fact, the petitioner contended that he is a retired Government servant and after retirement, joined as the Principal of the College in question, where the students had been admitted. At present, the criminal proceeding is sought to be dropped on the ground of a compromise by referring to certain affidavits filed by some of the aggrieved students.

7. In support of such claim, the learned counsel appearing for the petitioner relied upon the original affidavits which are available in the record. The learned counsel appearing for the informant supported the contention of the other side stating that the matter has been settled amicably.

8. Learned counsel for the State contended that the PS concerned informed regarding the settlement of the dispute vis-à-vis the FIR which was lodged by the informant and others.

9. In case of a compromise between the parties, a criminal proceeding may be set aside/quashed depending on the facts and

circumstances of the case. It again rests on the nature of offences alleged as to whether closure of the proceeding would be in the interest of the parties. It is settled law that a proceeding involving non-compoundable offences can still be quashed in exercise of inherent jurisdiction envisaged in Section-482 Cr.P.C. An offence which is not compoundable cannot be directed to be compounded by resorting to Section 482 Cr.P.C. but that does not prohibit quashing of the proceeding in view of a settlement between the parties and of course, when such an approach is unlikely to affect the society at large. In this regard, a reference may be had to the decision of the Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others reported in 1990 SCR Suppl. (3) 259***, wherein, it is held that inherent power is exercisable under different situations though outlined but not exhaustive in order to secure the ends of justice.

10. In the instant case, the learned counsel for the petitioner claimed about the compromise supported by his counterpart and confirmed by the learned counsel for the State. Indeed, the original affidavits filed by some students available in the record are perused by the Court. Accepting the claim of compromise and on the premise that the grievances of all the students, who had lodged the FIR, have been duly redressed and taking into account the nature of allegations made in Annexure-1 and in view of the law laid down by the Apex Court in case of ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karkur and others v. State of Gujarat and another***, reported in ***AIR 2017 SC 4843***, the court is

of the considered view that the proceeding in so far as the petitioner is concerned should be set aside.

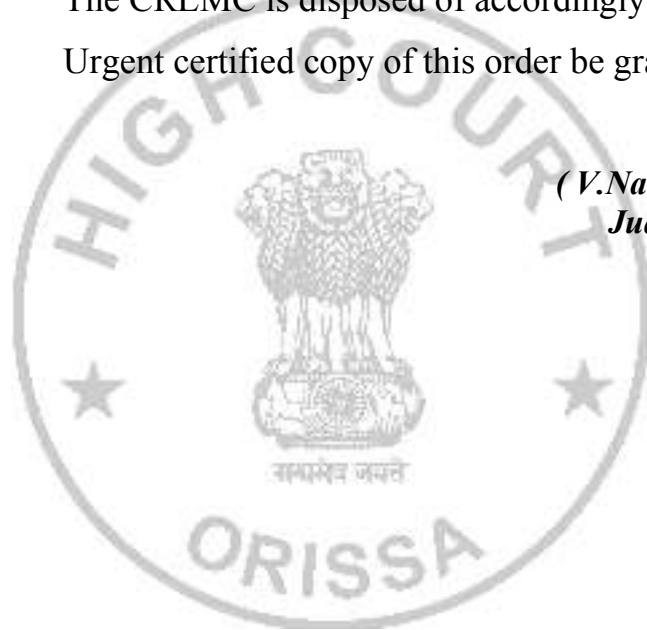
11. And accordingly, it is ordered.

12. In the result, application under Section-482 Cr.P.C. filed by the petitioner stands allowed. Consequently, the criminal proceeding in G.R. Case No.17 of 2012 pending in the file of learned S.D. J.M., Phulbani is hereby quashed vis-à-vis the petitioner.

13. The CRLMC is disposed of accordingly.

14. Urgent certified copy of this order be granted as per rule.

Balaram



(V.Narasingh)
Judge