IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.846 of 2026

Mrs. Smeeta Jesthi & Anr. **....** ***Petitioner(s)***

Mr. Omkar Dev Das, Adv.

-versus-

State of Odisha & Anr. **....** ***Opposite Party(s)***

Mr. Debasish Nayak, AGA
Mr. Soumendra Pattanaik, Adv. (for O.P. No.2)

CORAM:
HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI

ORDER

Order No.
02. **07.04.2026**

1. This matter is taken up through hybrid arrangement.

2. Heard learned counsel for the parties.

3. By filing the present CRLMC, the Petitioners have prayed for quashing the entire criminal proceedings initiated against them vide Kharvelnagar P.S. Case No.348 of 2021 and the entire criminal proceedings emanating therefrom, which is stated to be pending before the learned S.D.J.M., Bhubaneswar.

4. Learned counsel for the respective parties submit that, in the interregnum, the dispute between the parties has been amicably settled. In support thereof, a joint affidavit dated 30.11.2025 has been filed, which is on record.

5. The relevant portion of the joint affidavit filed by both the parties is extracted hereunder:

Signature Not Verified
Digitally Signed
Signed by: SIPUN BEHERA
Designation: Senior Stenographer
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 08-Apr-2026 12:44:25

"xxx xxx xxx

"4. That the Informant/Complainant and the Accused Person No.1 & 2 do not want to proceed further in Kharvela Nagar P.S. Case No.348/2021 arising out of FIR dt.23.10.2021. The Police has submitted Charge sheet U/s 403/406/418/465/468/34 of IPC. The Parties are desirous to put an end to the matter once and for all, looking to the ill health of their father.

5. That even though the disputes which had arisen have not been put to rest, but looking to the changed circumstances, the Parties do not want to proceed further. The Petitioners and the Opp.Party have settled their dispute amicably and mutually and do not want to proceed further in Kharvela Nagar P.S. Case No.348/2021 arising out of FIR dt.23.10.2021.

6. That in view of the aforesaid facts and circumstances, the Complainant/Informant is not desirous to continue/proceed further in Kharvela Nagar P.S. Case No.348/2021 dt.23.10.2021, against the Accused Person No.1 & 2.

7. That both the Parties are present today and file this Joint Affidavit before this Hon'ble Court for an effective order in quashing the FIR dt.23.10.2021 corresponding to Kharvela Nagar P.S. Case No.348/2021, which is now pending in the Court of Learned SDJM, Bhubaneswar, awaiting FF.

8. That this Joint Affidavit is signed by the Parties in free will and good mental state and without any force or coercion."

6. This Court has considered the joint affidavit filed by both parties and is conscious of the settled legal position that the inherent

jurisdiction of the High Court under Section 482 Cr.P.C. is distinct from the power of compounding under Section 320 Cr.P.C., and may be invoked to secure the ends of justice or to prevent abuse of the process of Court. At the same time, such power is not to be exercised mechanically merely because the parties have arrived at a settlement; the Court is required to examine the nature and gravity of the allegations, the real genesis of the dispute, the stage of the proceeding, and whether, in view of the stand now taken by the victim, the possibility of conviction has become remote and continuation of the prosecution would amount to futility or oppression.

7. In the present case, Opposite Party No.2 has joined the Petitioner in filing a sworn affidavit and has categorically stated that she does not wish to proceed further with the criminal case. Thus, the Court is not proceeding on the basis of a bare compromise alone, but on the subsequent stand of the complainant herself, which substantially erodes the factual substratum of the prosecution. Having regard to the materials on record, the stage of the case, and the unequivocal position taken by the complainant, this Court is satisfied that the possibility of a successful conviction is remote and bleak, and that continuation of the impugned proceeding would serve no useful purpose but would instead amount to abuse of the process of law.

8. In light of the aforesaid, and applying the same to the facts of the present case, this Court is of the considered view that the continuance

of the impugned criminal proceeding would amount to an abuse of the process of Court and would not subserve the ends of justice.

9. In fact, in the case of ***Shiji @ Pappu v. Radhika***[1]***,*** the Supreme Court has held that even where an offence is non-compoundable, quashing may still be justified if there is no realistic chance of conviction and continuance is an empty formality. The Court held as follows:

> *"It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other."*

10. Similar view was taken by the Supreme Court in the case ***Manoj Sharma v. State***[2] wherein the Court held as follows:

> *"It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility.*

[1] AIR 2012 SUPREME COURT 499
[2] (2008) 16 SCC 1

There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other."

11. Tested against the aforesaid principles and the facts of the present case, this Court finds that allowing the prosecution to continue would be futile and would amount to an abuse of the process of law.

12. In view of the foregoing discussions, the application is allowed. Accordingly, the F.I.R. in Kharbelnagar P.S. Case No.348 of 2021 is hereby quashed. Consequently, the entire criminal proceedings arising therefrom pending before the learned S.D.J.M., Bhubaneswar, also stand quashed.

13. This CRLMC is, accordingly, disposed of.

14. Pending application (s), if any, shall stand disposed of.

15. Issue urgent certified copy of this order as per Rules.

16. A copy of this order be communicated to the learned trial Court for information.

(Dr. Sanjeeb K Panigrahi)
Judge

Sipun