



THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2879 of 2022

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

Ramesh Chandra Sethi **Petitioner**

-Versus-

State of Orissa **Opposite Party**

For the Petitioner : Mr. Tirth Kumar Sahu, Advocate

For the Opposite Party : Mr. Bibekananda Nayak,
Additional Government Advocate

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing:05.02.2025 : Date of Judgment:04.03.2025

S.S. Mishra, J. The petitioner has invoked the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. seeking quashing of the order dated 19.02.2022 passed by the learned Sub-Divisional Judicial Magistrate (SDJM), Bonai in G.R. Case No.524 of 2019, arising out of Bonai P.S. Case No.130 of 2019, whereby cognizance of the offence under Section 82 of the



Juvenile Justice (Care and Protection of Children) Act, 2015 has been taken against him.

2. The case originates from an FIR No.130 of 2019, registered at Bonai Police Station on 08.11.2019, lodged by the informant, Mangal Bhumij, alleging that his son, Murali Bhumij, a student at R.D.D. High School, Bonaigarh, succumbed to death, allegedly exacerbated by the disciplinary action taken by the petitioner in his capacity as an NCC in-charge and teacher at the said School.

3. As per the prosecution, on 23.10.2019, the petitioner allegedly imposed a disciplinary punishment on the deceased by instructing him to perform 300 sit-ups. Subsequently, the deceased complained of physical discomfort to his family but did not disclose any details of the incident. His health deteriorated on 28.10.2019, leading to his admission to Sub-Divisional Hospital, Bonaigarh, and later referred to M.K.C.G. Medical College, Burla, where he ultimately passed away on 02.11.2019.

4. The investigation culminated in the filing of charge sheet (C.S. No.155 of 2020) under Section 82 of the Juvenile Justice Act, with the learned SDJM, Bonai taking cognizance of the offence on 19.02.2022. Section 82 of the Act, talks about Corporal punishment, which reads thus:

“Any person in-charge of or employed in a child care



institution, who subjects a child to corporal punishment with the aim of disciplining the child, shall be liable, on the first conviction, to a fine of ten thousand rupees and for every subsequent offence, shall be liable for imprisonment which may extend to three months or fine or with both.

(2) If a person employed in an institution referred to in sub-section (1), is convicted of an offence under that sub-section, such person shall also be liable for dismissal from service, and shall also be debarred from working directly with children thereafter.

(3) In case, where any corporal punishment is reported in an institution referred to in sub-section (1) and the management of such institution does not cooperate with any inquiry or comply with the orders of the Committee or the Board or court or State Government, the person in-charge of the management of the institution shall be liable for punishment with imprisonment for a term not less than three years and shall also be liable to fine which may extend to one lakh rupees."

Aggrieved by this order, the petitioner has approached this Court, contending that the case against him is devoid of merit legally and factually.

5. During the course of investigation, the post-mortem report, as well as the medical opinion, attributed the cause of death to meningitis, a natural disease unrelated to external trauma. There was no internal or external injuries found on the body at the time of autopsy. Further, statements recorded under Section 161 of Cr.P.C. from various staff members and hostel inmates did not support the prosecution's version of events.

6. Mr. Sahu, learned counsel for the petitioner argues that there



was even no cursory link between the alleged disciplinary action and the student's death. Meningitis is a natural disease. Independent witnesses' statements do not support the prosecution case. Even the FIR was lodged six days after the student's death, indicating an afterthought and possible ulterior motive to implicate the petitioner. The petitioner was discharging his official duty, and no prior sanction under Section 197 of Cr.P.C. was obtained before proceeding against him.

7. Mr. Nayak, learned Additional Government Advocate appearing for the opposite party-State, opposes the petition, arguing that the petitioner subjected a minor to corporal punishment, which forms the basis of the charge under Section 82 of the Juvenile Justice Act. The severity of the disciplinary measure should be viewed in light of child protection laws. The veracity of the allegations is a matter of trial, and the Court should not interfere at this stage.

8. Upon reviewing the FIR, charge sheet, medical reports, and witnesses statements, this Court finds that the medical records attribute the cause of death to meningitis, and no external or internal injuries were found on the deceased's body. No independent witness has corroborated the allegations against the petitioner, and the delay in lodging the FIR raises serious doubts



about the veracity and motive behind the allegations.

9. The mandatory sanction under Section 197 of Cr.P.C. was not obtained before prosecuting the petitioner, despite the fact that the alleged act, even if true, was committed in the course of official function/duty of the petitioner. In light of the above, the ingredients of Section 82 of The Juvenile Justice (Care and Protection of Children) Act, 2015 are not *prima facie* satisfied, and continuation of the prosecution would amount to abuse of process of law. In ***Dhanesh Kumar vs. State of Kerala and Ors.*** **MANU/KE/4564/2024** the High Court of Kerala referred to an earlier decision and held thus:

"9. In Jeeji A.V. vs. State of Kerala [2019 KHC 830] this Court made the following observation.

"3. The counsel for the petitioner would point out that the abovesaid allegations are false and frivolous, and that though the incident had happened 30.9.2019 the FIS and the crime have been lodged as late as on 7.10.2019, and the long delay in this regard is clearly indicative of the fact that the allegation therein are the product of afterthought and fabrication, and the delay in this regard would vitiate the impugned criminal proceedings. Further that, the Apex Court and various High Courts including this Court has held in a catena of rulings that teachers have the inherent right to discipline the students proportionate punishments by way of caning a student by itself cannot be said to constitute a penal offence, unless the teacher has used unfair and disproportionate force, which is not called for in the given situation. Further that, the act of a teacher caning a student is a "corporeal punishment" as defined in Sec.2(24) of the the JJ Act and that Sec.82 of the said Act makes corporeal punishment, an offence, only if it is committed by a person in charge/an employee of a child care institution. The child care institution has been defined in Sec.2(21) of the JJ Act whereby it defines to mean that Children Home, open shelter, observation home, special



home, place of safety, Specialised Adoption Agency, etc, and that a school is not thus included in the definition of child care institution, and therefore the act of a teacher in caning a student, even if it is otherwise a corporeal punishment, would come under Sec.2(24) of the JJ Act, but is not a punishable offence as per Sec.82 of the said Act, and that the Parliament has specifically and consciously taken the legislative policy option that act of corporeal punishment imposed by a teacher on a student, is taken outside the ambit of an offence as per Sec.82 of the JJ Act.

Since that is the position, such an act of corporeal punishment imposed by a teacher on a student cannot be indirectly made an offence by circuitous method of placing reliance on Sec.75 of the said Act, and if that be so, it would amount to indirectly doing something which is directly prohibited by the Parliament. Therefore, the alleged act of corporeal punishment imposed by a teacher on the student of the said school, even if otherwise satisfies the definition of corporeal punishment as per Sec.2(24) of the JJ Act, will not be a punishable offence either as per Sec.82 of the JJ Act, or any other provisions of the JJ Act, including Sec.75 thereof. Therefore the charging of offence as per Sec.75 of the JJ Act in the instant case, is illegal and ultra vires, as the admitted facts will not disclose any offence. Further that, the only allegation against the petitioner is that, he had acted as a silent spectator when A1 had caned the boy. Accordingly it is urged that the custodial interrogation of the petitioner is not necessary, and that this court may grant anticipatory bail."

10. Punishment should be adequate to serve the cause of justice. The idea aligns with the legal principles that suffice fairness, deterrence and rehabilitation rather than mere retribution. Justice is well served if the purpose of justice is achieved, but not when the punishment is harsh. The alleged negligence of the petitioner which cost the life of the son of the informant can't be compensated. But the petitioner even if convicted for the offence he is charged with, i.e., under Section



82 of The Juvenile Justice (Care and Protection of Children) Act, 2015, would be awarded a sentence of a fine of ten thousand rupees only and for every subsequent offence, shall be liable for imprisonment which may extend to three months or fine or with both. Lesser sentence prescribed under the law sometimes could be replaced exemplary cost. Restorative justice could be served by imposing heavy costs to compensate the victim's family to mitigate loss.

11. This Court is alive to the fact that a young life has been lost, and no amount of compensation would compensate for the loss of a child. Although the medical evidence negates any direct culpability of the petitioner, it is the duty of the State to ensure that students residing in government schools and hostels receive proper medical attention and a safe environment. Modern countries across the globe have acknowledged that the worth of a child's existence much outweighs the economic value of compensation granted in the event of a child's death. Most countries allow parents to seek compensation for loss of consortium following the death of a child. The sum paid to the parents compensates them for the deceased child's loss of love and devotion, as well as care and companionship. In this regard,



the Court deems it appropriate to provide a compensation of Rs.1,00,000/- (Rupees one Lakh) to the family of the deceased student to be paid by the petitioner. The compensation is not in any manner to be construed as an acknowledgment of guilt of the petitioner but as an ex-gratia relief to the bereaved family. Mr. T.K. Sahu, learned counsel appearing for the petitioner has consented to the compensation order and submitted that his client would pay the compensation amount to the informant without prejudice.

12. On merits, the petitioner although succeeds as there is no material available to establish criminal liability, but from the facts emanating from the record, it's apparent that the incident has happened. Therefore, it is open for the Department to proceed against him departmentally, if so advised. However, it's made clear that the observation made in this judgment shall not influence the departmental proceeding.

13. With the above observation and direction, the CRLMC is disposed of.

(S.S. Mishra)
Judge

Signature Not Verified

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Location: High Court of Orissa, Cuttack.
Date: 10-Mar-2025 19:47:07 The 4th day of March, 2025/ Subhasis Mohanty

