



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1056 of 2025

Application under Article 226 and 227 of the Constitution of India.

Pramod Kumar Singh

.....

Petitioner

-versus-

State of Odisha

.....

Opposite Party

For Petitioners

: Mr. Jayakrishna Mahapatra,
Advocate

For Opp. Parties

: Mr. S. J. Mohanty, A.S.C.

CORAM:

HON'BLE MISS JUSTICE SAVITRI RATHO

JUDGMENT

15.05.2025

Savitri Ratho, J. This CRLMC has been filed with the following
prayer :-

“It is therefore prayed that this Hon'ble Court may graciously be pleased to quash the proceeding of C.T. Case No.914 of 2024 corresponding to S.T. Case No.58 of 2024 pending in the court of learned Addl. Sessions Judge , Rairangpur in the District of Mayurbhanj and pass such other order /orders as would be deemed fit and proper ;



And for this act of kindness, the petitioner as in duty bound shall ever pray.”

2. Mr. Mohapatra, learned counsel for the petitioner submitted that the proceedings against the petitioner are liable to be quashed as the victim was a major and in a consensual relationship with the petitioner and they were not married. He has further submitted that since preliminary charge sheet dated 14.11.2024 had been submitted against the petitioner him under Section 498A, 313, 34 of the Indian Penal Code (in short “the IPC”) keeping investigation open for taking further action , unless the further proceedings in the case are stayed till submission of final chargesheet and trial commences, the petitioner will be prejudiced as will not be able to take benefit of any material which may be submitted by the police in the final chargesheet. Referring to Section 193(8) of the Bharatiya Nagarik Suraksha Sanhita (in short “BNSS”), he submits that the said provision does not permit further investigation.

3. Mr. S. J. Mohanty, learned Addl. Standing Counsel submitted that on the basis of materials found during investigation against the petitioner, the police has submitted charge sheet against the petitioner under Section 498A, 313 of the IPC and have kept investigation open. He has submitted that although it is unlikely but



in case any matter subsequently found to be in favour of the petitioner, the same can be urged by the petitioner at the time of the trial but merely because preliminary charge sheet has been filed in this case keeping investigation open, the proceedings against the petitioner trial can not be kept pending. He has also submitted that the contention that the proceedings in C.T. case No. 914 of 2024 corresponding to S.T. Case No. 58 of 2024 are liable to be quashed as the offence under Section 498A, 313 of the IPC are not made out against the petitioner as he has neither married the victim nor aborted her pregnancy and a false allegations have been made against him by the victim who was in a consensual relationship with him cannot be gone into at this stage and can be raised by the petitioner before the learned trial court as the case has already been committed .

4. Perused the FIR and charge sheet which have been annexed to this application. FIR had been registered against the petitioner and his sister Sukanti Singh on 14.08.2024 under Section 498 A, 313 /34 IPC. Preliminary charge sheet dated 14.11.2024 has been submitted under Sections - 498 A, 313 / 34 IPC. against the petitioner stating that a prima facie case is made out against the petitioner and keeping investigation open under Section – 193 (8)



of the BNSS for taking further action as the joint marriage photograph had not been seized and the witnesses present at Udala who subsided the dispute had not been examined . So the submission of the petitioner that the police may find materials in support of the innocence of the petitioner is fantastic and liable for rejection .On the other hand, the materials which may be found during investigation will only strengthen the case of the prosecution against the petitioner.

6. Section– 193(9) of the BNSS provides for further investigation by the police and the proviso provides for further investigation after trial has started. Section – 193 is extracted below: -

“Section 193. Report of Police Officer on completion of investigation (1) Every investigation under this Chapter shall be completed without unnecessary delay.

(2) The investigation in relation to an offence under sections 64, 66, 67, 68, 70, 71 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012 shall be completed within two months from the date on which the information was recorded by the officer in charge of the police station.

(3) (i) As soon as the investigation is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police



report, a report in the form as the State Government may, by rules provide, stating—

- (a) the names of the parties;*
 - (b) the nature of the information;*
 - (c) the names of the persons who appear to be acquainted with the circumstances of the case;*
 - (d) whether any offence appears to have been committed and, if so, by whom;*
 - (e) whether the accused has been arrested;*
 - (f) whether the accused has been released on his bond and, if so, whether with or without sureties;*
 - (g) whether the accused has been forwarded in custody under section 190;*
 - (h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 64, 66, 67, 68 or section 70 of the Bharatiya Nyaya Sanhita, 2023.*
- (ii) The police officer shall, within a period of ninety days, inform the progress of the investigation by any means including electronic communication to the informant or the victim.*
- (iii) The officer shall also communicate, in such manner as the State Government may, by rules, provide, the action*



taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given. (4) Where a superior officer of police has been appointed under section 177, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(5) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(6) When such report is in respect of a case to which section 190 applies, the police officer shall forward to the Magistrate along with the report—

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 180 of all the persons whom the prosecution proposes to examine as its witnesses.

(7) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement



and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(8) Subject to the provisions contained in sub-section (7), the police officer investigating the case shall also submit such number of copies of the police report along with other documents duly indexed to the Judicial Magistrate for supply to the accused as required under section 230: Provided that supply of report and other documents by electronic communication shall be considered as duly served.

(9) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form as the State Government may, by rules, provide; and the provisions of sub-sections (3) to (7) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (3):

Provided that further investigation during the trial may be permitted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may extend with the permission of the Court.



7. In view of Section 193(9) of the BNSS, merely because a wrong sub section has been mentioned in the charge sheet i.e. Subsection 193(8) instead of Section 193(9), it will not render the investigation illegal or non-est.

8. It is stated in paragraph 3 of the CRLMC that the case has been committed to the Court of Sessions and was posted to 02.03.2025 for framing of charge. So it is apparent that the learned Magistrate has taken cognizance of the offences on the basis of the charge sheet which has been styled as preliminary charge sheet.

9. In the case of *Central Bureau of Investigation v. Kapil Wadhawan and another; (2024) 3 SCC 734*, while deciding the question of grant of default bail to the accused on the ground that preliminary charge sheet had been filed, the Supreme Court held that on the basis material produced along with the charge-sheet, once the Court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not, whether such further investigation is regarding other accused person or for production of some documents not available at the time of filing of charge-sheet; would



neither vitiate the charge-sheet, nor would it entitle the accused to default bail .

10. As the case has been committed, I am not inclined to quash the proceedings on the ground that final charge sheet has not been filed.

11. I am also of the view that the further proceedings in the Sessions Trial are not liable to be stayed on the ground that final charge sheet has not been filed.

12. The CRLMC is disposed of granting liberty to the petitioner to raise all his contentions at the time of framing of charge if charge has not been filed or during trial, which shall be considered in accordance with law.

13. This CRLMC is disposed of with the aforesaid observation.

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(Savitri Ratho)
Judge

Orissa High Court, Cuttack.
The 15th May, 2025/Subhalaxmi