



**NON-REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. OF 2026**

**(@ SPECIAL LEAVE PETITION (CRL) No. 9445 of 2023)**

**SUSANTA KUMAR DALEI @SUSANTA KUMAR**

**DALAI**

**.....Appellant (s)**

**VERSUS**

**STATE OF ODISHA (VIGILANCE)**

**.....Respondent (s)**

**J U D G M E N T**

**PRASANNA B. VARALE, J.**

1. Leave granted.
2. The present criminal appeal arises out of a judgement and order dated April 10, 2023, passed by the High Court of Orissa at Cuttack in CRLMC No. 1505 of 2022 whereby the High Court dismissed the discharge application of the Appellant herein.

### **BRIEF FACTS**

3. The factual matrix of the case is that an FIR was lodged on 23.07.2001 against the Appellant along with other accused persons under Sections 13(2) read with Section 13(1)(d) of the P.C. Act, 1988 (Hereinafter referred to as 'PC Act') and under Sections 471/477A/120-B of the Indian Penal Code, 1860 (Hereinafter referred to as 'IPC'), and 27 of the Orissa Forest Act. It is in the F.I.R. that M/s Keshari Traders of Jeypore was appointed as Raw Materials Procurer (Hereinafter, referred to as 'R.M.P') by the Managing Director, O.F.D.C., Ltd., Bhubaneswar in, Letter No. 34244, dated 27.12.1999 in pursuance of the order of the Government in Forest and Environment Department Vide letter No. 22249, dated 23.12.1999 to salvage wind faller timber from the Chitrakonda and Kalimela Ranges of Jeypore Forest Division. The RMP started salvage operation during January, 2000 and has lifted 204.3890 Cum timber (7154 Cft.) from the Depot of to Rajhmandri (Andhra Pradesh) by depositing royally amount of Rs. 10,20,245.00 and commission of Rs.2,47,001/-. The Government of Orissa the O.F.D.C. has imposed total moratorium on felling of standing trees in the Forest in G.O. No. 22464/F & E., dated 25.11.1997. In the back drop of such Government policy the application of M/s Keshari Traders has been entertained and recommended by the Forest Department as well as O.F.D.C., Officials for salvage operation of timber in Jeypore Forest Division under the pretext of Naxalite problem, intervening salvage clearance of departmental officials without any basis. The tender of M/s Keshari

Traders was accepted out of three tenderers only for the purpose of transportation of salvage Timber from Forest Floor to the Depot of O.F.D.C.. Further, in the F.I.R. it is mentioned that the Government has approved the Terms and conditions for salvage operation by the R.M.P. formulated by a high power Committee constituted for the purpose. The approved Terms and Conditions were sent to the P.C.C.F, Orissa, Conservator of Forest, Koraput, D.F.O., Jeypore, D.M. (C), O.F.D.C., Malkangiri alongwith the appointment order. As per sub-Clause-4 under the clause Depot of approved terms and conditions after receipt of the timber at the Depot of the O.F.D.C., the sale value of the timber has to be collected from the R.M.P. and then the R.M.P. will be allowed to lift the timber from the Depot. But in gross violation of the aforesaid approved terms and conditions the R.M.P. was allowed by the Forest Department and O.F.D.C. officials to lift 204.3890 Cum of timber mostly of teak and other valuable species including some live trees by depositing a meager amount of royalty of Rs. 10,20,245.00 fixed by the D.F.O., Jeypore by showing the trees as defective and under girth. The cost of the timber lifted has been assessed by the Enquiry Committee consisting of Shri B.K.Patnaik, Director, Commercial, O.F.D.C., and Shri P. Singh IFS., Chief Conservator of Forest, Orissa and they assessed the amount as Rs.. 45,01.000/-. Therefore, without assessing the market value and without selling the timber at competitive rates to the highest bidder, the R.M.P. was allowed to lift the timber by depositing royalty for which the Government has sustained minimum loss of

Rs.34,80,755/-. Further, during verification and enquiry Committee comprising C.C.F, Orissa and Director (C), O.F.D.C. by Special Task force constituted by Government with two Conservators of Forests and the joint verification conducted by Vigilance Organisation it is found that irregularities have been committed by both the Forest Department and O.F.D.C. Officials in the process of enumeration, passing conversion and lifting of the salvage timber by the R.M.P., and it came to light that a total volume of 371.7684 Cum. Worth of Rs.41,54,245/- have been felled illegally by R.M.P. and were transported in the disguise of faller trees only, in connivance with the Forest and O.F.D.C. Officials. It is alleged that the Appellant accused alongwith other accused persons committed the offence, in order to derive pecuniary benefit for themselves and for the firm by abusing their official position, but for which the aforesaid clandestine deal by the Firm with the Government officials, which amounts prima facie all the accused persons have committed the criminal misconduct under Sections 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988 and under Sections 471/477-A/ 120-B of the I PC and 27 of Orissa Forest Act, 1972.

4. Cognizance of the offences was taken by the learned court of Special Judge (Vigilance) Brahmapur. After completion of the investigation, the charge-sheet no. 4/24.03.2007 was submitted on 24.03.2007 against the present Appellant and the co-accused persons under section 13(2) read with 13(1)(d) of PC Act, Section 471, 477-A, 120-B of IPC and Section 27 of Odisha Forest Act.

5. The present Appellant along with co-accused Bimbadhar Sahu, Range officer Chittrakonda range had filed an application under Section 227 of Code of Criminal Procedure (Hereinafter 'Cr. P.C') to discharge them for the commission of alleged offences and prosecution also filed an objection to the same.

6. The petitions under Section 227 of the Cr. P.C filed for discharging the accused persons namely, Susanta Kumar Dalai and Bimbadhar Sahu were rejected. The petition filed by the Appellant to rescind cognizance was also rejected. Ld. Special Judge(Vigilance) vide order dated 21.03.2022, observed that there is a prima facie case well made out in the form of sufficient material to presume that the accused persons have committed the offence under section 3(2) read with 13(1)(d) of PC Act and sections 471/477-A/120-B of IPC.

7. The Appellant made an application under Section 482 of Cr. P.C and an application challenging the order passed by the Learned Special Judge (Vigilance) Jeypore in rejecting the application for discharge under Section 227 of Cr. PC.

8. Hearing of the application under CRLMC No. 1505 of 2022 along with other related applications was concluded on 19th October, 2022. The Court held that no case is made out for interference with the Vigilance prosecution and accordingly ordered the dismissal of the CRLMCs.

9. Aggrieved by the said judgement of the High Court, the appellant is before us.

## **CONTENTIONS**

10. Ld. Counsel for the Appellant, Mr. P. Vamshi Rao vehemently argued that the Appellant, a Forest Range Officer, has been falsely implicated in Berhampur Vigilance P.S. Case No. 27 of 2001 registered under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, Sections 471, 477-A and 120-B IPC, and Section 27 of the Odisha Forest Act. It was further argued that neither the FIR nor the statements recorded under Section 161 Cr.P.C. disclose any prima facie case against the Appellant. It was submitted that M/s Keshari Traders was appointed as RMP by higher authorities and the OFDC, and the Appellant had no role in such appointment. The RMP was authorized only to extract salvage timber and firewood, not to fell green standing trees. Reliance was placed on the joint verification report dated 11.06.2000, which showed that the timber originated from Poddu cultivation areas and consisted mostly of old, dry and previously fallen trees. Another verification report dated 26.06.2000 assessed the value of timber at Rs. 20,58,861, contrary to the prosecution's alleged loss of Rs. 45,01,000, which was stated to be imaginary and based on assumptions. The counsel for the Appellant further contended that reports of Andhra Pradesh forest officials also confirmed that the timber appeared old, dry and decayed, ruling out fresh illicit felling. It was argued that all royalty, commission and taxes demanded by OFDC had been duly deposited before transportation of timber. No material, according to the Appellant, connected him with the alleged offences or conspiracy.

Challenge was also made to the sanction orders under Section 197 Cr.P.C. and Section 19 of the Prevention of Corruption Act on the ground of non-application of mind. Lastly, it was submitted that proceedings against similarly placed co-accused officers had already been quashed by the High Court, and therefore the Appellant was also entitled to discharge.

11. *Per contra*, Ld. counsel for the respondent, Mr. Suvendu Suvasis Dash vehemently argued that the petition lacks merit and raises no substantial question of law warranting interference under Article 136 of the Constitution. It was also argued that investigation revealed large-scale illicit felling of live standing green trees in the guise of salvage operations and illegal transportation of timber to Andhra Pradesh. The respondent contended that although salvage operations were permitted only for naturally fallen or uprooted trees, the Appellant and other accused officials, in conspiracy with M/s Keshari Traders, abused their official positions and allowed clandestine felling of valuable green trees for pecuniary gain. The counsel for the respondent further submitted that the Government of Odisha had imposed a complete moratorium on felling of standing trees since 1992 and that OFDC alone was authorized to undertake salvage operations under strict guidelines. Despite this, during the Appellant's tenure as Forest Range Officer, a large number of trees in Kalimela and Chitrakonda Ranges were illegally felled and removed at minimal royalty. It was contended that the investigation established a prima facie case under the Prevention of Corruption

Act, IPC and Odisha Forest Act, and therefore the charges were rightly framed. The plea of parity with co-accused officers whose proceedings were quashed was opposed on the ground that those cases were decided on their own facts and mitigating circumstances.

### **ANALYSIS**

12. Heard Ld. Counsel for the appellant as well as Ld. Counsel for the respondent. We have also perused relevant documents on record and the judgment passed by the High Court.

13. The High Court vide its judgement dated. 10.04.2023 dismissed the application of the Appellant-accused while observing as under:

*“13. To restate the facts before winding up, the Court finds that the learned counsel for the petitioner in CRLMC No.1134 of 2021 referred to a copy of the order of the Govt. in Forest and Environment Department. On a reading of the said order, it is made to appear that the departmental proceeding has been dropped on the ground that the action against Mr. Susanta Nanda on the same issue was closed. In fact, the said accused and the Vigilance prosecution against him was quashed in CRLMC No.2577 of 2008 since the Vigilance Department did not dispute him of having any role to play in the appointment of the RMP. In other words, the departmental action against the said petitioner was closed after the proceeding vis- à-vis the accused in CRLMC No.2577 of 2008 was quashed. It is claimed that since there is exoneration of the petitioner in the departmental proceeding, the Vigilance prosecution should be brought to an end. While contending so, Mr. Samantaray cited a decision of this Court decided in CRLMC No.3407 of 2010 (Minaketan Pani Vrs. State of Odisha). In the aforesaid decision, this Court found the petitioner*

therein to have been fully exonerated and hence on such ground quashed the prosecution. In the present case, the departmental proceeding was closed since another accused was let off after the order in CRLMCNo.2577of 2008. Moreover, considering the representation of the said petitioner and in view of the closure of the departmental proceeding against the co-accused, the action against him was dropped which is not a decision on merit or a case of exoneration of charges honorably. Nevertheless, the Govt. Granted the sanction in order to criminally prosecute the petitioner which is also challenged on the ground for not properly considering the materials on record. According to the Court, such an aspect is to be examined during trial. What were the materials placed before the Govt. and whether there was judicious application of mind at the time of according sanction is a matter to be examined by the Vigilance court. The plea of parity referring to exoneration of two other accused persons in CRLMC No.2577 of 2008 and CRLMC No.3033 of 2011 cannot be entertained since they stood allowed under the mitigating circumstances found in their favour. The need of sanction under Section 197 Cr.P.C. is raised by Mr.Samantaray by placing reliance on the decision of the Apex Court in D. Devaraj Vs. Owa is Sabeer Hussain decided in Criminal Appeal No. 458 of 2020 and disposed of on 18th June, 2020. **Since it is a Vigilance prosecution and large scale felling of trees and removal of timbers has been alleged leading to a loss to the Govt. exchequer, whether, it was an act in failing to exercise due diligence or an error in judgment or otherwise, having regard to the entirety of the materials and circumstances under which action was taken and sanction was accorded by the Govt. to criminally prosecute the petitioners, the Court is of the view that the plea of immunity in terms of Section 197 Cr.P.C. shall have to be examined during trial. ...What was the role played by the said petitioner is a matter of evidence. Furthermore, the above**

**petitioner cannot claim discharge on the ground that he had retired from Govt. service by the time FIR was lodged and that he was not in picture when the RMP was allowed Cooperate. All such questions are factual based which needs determination only after appreciating the entire of the evidence.... Moreover the above petitioner is one of the partners of the RMP which was involved in the salvage operation. The allegation is about clandestine felling of live trees and removing them from the forest area under the excuse of salvage clearance which was at the instance of the RMP of which the said petitioner happens to be one of its partners.**

**The Court is also not inclined to go into the details in order to segregate the role played by the said petitioner as in any case he is stated to be a partner of the RMP...**”

[Emphasis supplied]

14. On perusal of the FIR, it is revealed that the Appellant i.e., Susanta Kumar Dalai was then working as a Range Officer in kalimela range and it was alleged that he along with other high officials and private firm namely M/s Keshari Traders conspired together by abusing his official position in allowing them to do clandestine felling of live trees in order to derive monetary benefit for themselves and for the firm.

15. It can be safely stated that firstly, the nature of accusation is of joint accusation against all the accused persons including the Appellant and this factum is revealed from the perusal of the FIR and the charge sheet. It also reveals further that there is no specific material against the Appellant nor the Courts below recorded any

finding or observation for not considering the case of discharge against the Appellant on an independent assessment of the material qua the Appellant. Secondly, on the backdrop of similar set of accusations against the other accused persons, the plea for discharge by those accused persons is favorably entertained by the Court qua those accused persons. On this fact situation, there was no reason for the High Court to single out the Appellant from the other co-accused persons and rejecting his claim when the Appellant claimed parity with the other accused persons. In our opinion, the reasons assigned by the High Court rejecting the claim of the Appellant neither stand to reason nor sustainable on the facts of the matter.

16. In **Neelu Chopra and another Vs. Bharti 2009 10 SCC 184**, it has been held that:

*9. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not the be all and end all of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence.*

We are of the opinion that material on record in the present case do not satisfy such a requirement for implicating the Appellant in the criminal proceeding which is pending against him. In the absence of allegations indicating specific role played by the Appellant towards commission of the alleged offences, continuance of criminal proceeding against the Appellant shall not serve any useful purpose

and rather would amount to abuse of process of court. Therefore, in order to secure ends of justice, criminal proceeding, against the Appellant is liable to be dropped.

17. In **State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335; AIR 1992 SC 604**, it has been held that:

*102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

*(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

In the present case, the allegations are vague and do not specify the Appellant's role. This falls squarely within the first category mentioned above. Even if the entire prosecution case is taken as true, there is no material that specifically links the Appellant to the alleged offence. Therefore, the discharge petition deserves to be allowed. If there's any indication that the Appellant was roped in simply because

they were part of a larger group or due to political/personal vendetta, and there is no clear act or role assigned, it can be observed that the continuation of proceedings amounts to harassment and abuse of the process of law.

18. The Court is not convinced that continuing the criminal case against the Appellant would be fair or just. The Appellant has approached this Court saying that the allegations made in the chargesheet are unclear, general, and do not mention any specific wrongdoing by them. After carefully checking the records, the Court agrees with this argument.

19. In any criminal case, there must be clear and specific material that shows the accused might have committed the crime. A case cannot be allowed to continue based only on guesses or vague statements. In this case, the material does not show any direct involvement of the Appellant in the crime. The accusations are made against a group of people together and do not explain what exactly the Appellant is supposed to have done. Such broad and general claims, without mentioning the Appellant's individual role, are not enough to continue with the trial.

20. We are of the opinion that the presence of general allegations, without any overt act or specific imputations against the accused, cannot be sufficient to proceed to trial. The law is well settled that at the stage of consideration of discharge, though a detailed appreciation of evidence is not warranted, the Court must be satisfied that there exists sufficient ground for proceeding against the

accused. In this case, even if the entirety of the material produced by the prosecution is accepted as true, it does not disclose the commission of any offence by the Appellant. The allegations appear to be cast in a net wide enough to implicate all, without regard to individual acts or culpability. This is impermissible under law.

21. Furthermore, it is not in dispute that two co-accused, namely Indian Forest Service officers who were similarly situated and even more prominently placed in the administrative chain of events, have already been discharged by the High Court. A comparative examination of the roles ascribed to the discharged co-accused and the present Appellant shows no distinguishable basis that would justify differential treatment. The principle of parity, which is a fundamental tenet of criminal jurisprudence, requires that similarly situated accused persons be treated alike. When the allegations and evidence against the Appellant are not even qualitatively stronger than those against the discharged co-accused, the continuation of proceedings against the Appellant alone would be arbitrary and violative of Article 14 of the Constitution of India.

22. This Court is further persuaded by the broader consideration that the criminal process must not be permitted to degenerate into an instrument of oppression. The law must act as a shield for the innocent, not as a sword in the hands of the vindictive. Where the material does not disclose the commission of an offence, the Court is duty-bound to interdict the proceedings at the threshold. The criminal trial is not a mere formality, nor a ritualistic procedure to be

endured regardless of merit. It entails stigma, hardship, and irreparable harm to the reputation and liberty of the individual. Where the materials do not establish even a grave suspicion, the accused must not be compelled to undergo the ordeal of trial.

23. In this regard, the Court notes with approval the observations made in **Yogesh v. State of Maharashtra, (2008) 10 SCC 394** that:

*27. From the material on record, it is manifestly clear that it was the family members of the appellant, one of their employees and a friend who had all allegedly entered into an agreement to eliminate the deceased. However, as noted above, Accused A-1, A-2, A-4, A-11 and A-12 already stand discharged from the charges framed against them under Sections 120-B and 302 IPC vide orders dated 7-7-2006 and 14-5-2007, passed by the High Court and the Sessions Judge respectively. While discharging the said accused, both the courts have come to the conclusion that there is no material on record to show that they had hatched a conspiracy to commit murder of Kunal. Thus, the stand of the prosecution to the effect that the parents, sister and friends of the appellant had entered into a criminal conspiracy stands rejected by virtue of the said orders of discharge. Furthermore, in its order dated 7-7-2006, the High Court has opined that the circumstances, relied upon by the prosecution, even if accepted in their entirety, only create a suspicion of motive, which is not sufficient to bring home an offence of murder. As noted above, the State's petition for special leave against the said judgment has already been dismissed.*

It can be seen that while the standard of proof at the stage of framing of charge is not that required for conviction, there must at least exist a grave suspicion against the accused. The material before

us does not cross even that threshold in the case of the present Appellant. The allegations, far from being grave, are devoid of specificity or legal relevance.

24. In light of the aforesaid consideration, we are of the opinion that the appeal deserves to be allowed and Appellant is entitled for his discharge from the offences alleged against him. Accordingly, the appeal is allowed and disposed of.

.....**J.**

**[PANKAJ MITHAL]**

.....**J.**

**[PRASANNA B. VARALE]**

**NEW DELHI;**  
**MAY 18, 2026.**