



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.519 of 2026

Dr. Kamala Tirkey @ Swain @ *Petitioner (s)*
Kamala Tirky

Mr. Dharendra Kumar Mohapatra, Adv.

-versus-

State of Odisha & Another *Opp. Party (s)*
Mr. Prabhu Prasana Behera, ASC

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

Order No.

06.

ORDER

30.06.2026

1. This matter is taken up through hybrid arrangement.
2. Marriage, in its idealized conception, is spoken of as a sacrament which is a union sanctified by trust, in which two strangers agree to become each other's keepers. But when that same institution is reduced to an instrument of commerce, when a wedding invitation becomes a charge-sheet, and a matrimonial home becomes the scene of an alleged economic offence, the Court is called upon to separate the grain of genuine matrimonial discord from the chaff of a well-oiled confidence trick. The present CRLMC compels this Court to walk precisely that line.
3. The complainant/Opposite Party No.2 appears in person and has filed her objection in Court today; the same is taken on record.
4. By this application under Section 482 of the Cr.P.C., the Petitioner seeks quashing of F.I.R. dated 09.03.2022 registered as Bhubaneswar Mahila P.S. Case No.30 of 2022, and the consequent criminal proceeding in C.T. Case No.1451 of 2022 pending before the learned S.D.J.M., Bhubaneswar, arising out of Charge Sheet



No.86 dated 20.07.2022 for offences under Sections 419/420/467/468/471/494/120-B/34 of the I.P.C.

5. Shorn of embellishment, the prosecution case is that the complainant came in contact, through a matrimonial portal, with one Ramesh Chandra Swain, who allegedly projected himself as “Dr. Bibhu Prakash Swain”, Deputy Director General of Health, posted at Bangalore, and supported the said false identity by producing fabricated identity documents and vehicle papers. Prior to the marriage, when the complainant visited the flat at Srikhetra, Bhubaneswar to verify the antecedents of her prospective husband, she was introduced to certain members of the household, including the present Petitioner, who was represented to be the “Bhabhi”/sister-in-law of the principal accused and a doctor practicing in San Francisco. The marriage was solemnised at Gurdaspur, Punjab on 03.12.2018 and was thereafter registered before the Additional Block Development Officer, Derabish on 10.09.2019. The prosecution further alleges that, by creating a false aura of professional eminence and social credibility, the accused persons induced the complainant to part with an amount of Rs.11,08,000/- and more.
6. On the basis of the said report, the FIR came to be registered and investigation was taken up. In the course of investigation, the Petitioner was arrested and was subsequently enlarged on bail. Upon completion of investigation, charge-sheet was submitted on 20.07.2022.



7. Learned counsel for the Petitioner submits that the Petitioner is a doctor by profession and is presently serving at Allahabad. It is contended that her only supposed "offence" is the accident of matrimony, namely, that she happens to be the wife of the principal accused, Ramesh Chandra Swain. It is further submitted that a plain reading of the FIR does not disclose any specific overt act attributable to the Petitioner. At the highest, the allegation is that she was introduced to the complainant as the "Bhabhi"/sister-in-law of the principal accused, which, by itself, is a mere fact of introduction and nothing more.
8. It is further submitted that the alleged architecture of deceit, namely, the false Aadhaar card, PAN card, vehicle documents, designation and other particulars, was the handiwork of the principal accused alone and cannot be fastened upon the Petitioner merely because she happens to share his surname and household. Learned counsel contends that the prosecution against the Petitioner rests not on any positive material, but on an inference drawn from marital proximity. Continuation of such a prosecution, it is urged, would amount to an abuse of the process of the Court and would unjustly cast a shadow upon her otherwise unblemished service career.
9. The complainant, appearing in person, opposes the prayer with equal vigour. She submits that the cheated amount, or at least a substantial part thereof, was routed into bank accounts standing in the names of the Petitioner's minor children. According to her, this



circumstance takes the Petitioner beyond the position of a passive bystander and points to her role as a conscious custodian of the proceeds of the alleged offence. She further alleges that the Petitioner was not introduced as “Bhabhi” to the complainant alone, but was similarly projected before other women, including one Dolly Dutta, who is stated to have parted with more than Rs.20 lakhs in a similar matrimonial deception. This, according to the complainant, indicates a recurring modus operandi in which the Petitioner played a consistent and knowing role. It is also alleged that the first legally wedded wife of Ramesh Chandra Swain is one Shanti Lata, a circumstance which, according to the complainant, has a bearing on the veracity of the Petitioner’s own matrimonial status and, by extension, her motive for participating in the alleged scheme. On this version, the money first came into the hands of the principal accused, Ramesh Chandra Swain, and thereafter travelled to the hands of the Petitioner or accounts connected with her family. If such a chain of custody is ultimately established, it is contended, the allegations would fall squarely within the ambit of Section 120-B read with Section 420 of the I.P.C.

10. Learned counsel for the State adopts the objections raised by the complainant and opposes the prayer for quashing. It is submitted that the charge-sheet has crystallized the aforesaid allegations into triable material. According to the State, the question as to whether the Petitioner was merely an unwitting relative introduced by an



unscrupulous husband, or a calculated participant who shared in the fruits of the alleged deception, is a matter to be tested on evidence and not to be decided on affidavits in a proceeding for quashing.

11. The inherent power under Section 482 Cr.P.C. is not a routine appellate remedy in disguise; it is an extraordinary jurisdiction, to be exercised sparingly, and only to prevent abuse of the process of the Court or to secure the ends of justice. The oft-cited enumeration by the Supreme Court in *State of Haryana v. Bhajan Lal*¹ remains the lodestar: quashing is warranted where the allegations, even if taken at face value, do not disclose the commission of any offence; where they are inherently improbable; where they are barred by law; or where the proceeding is manifestly actuated by malice or ulterior motive. What the jurisdiction does not permit, as a three-Judge Bench reaffirmed in *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra*², is a mini-trial, a weighing of probabilities, a testing of the complainant's version against the petitioner's defence on the touchstone of an FIR alone.

12. Equally settled is the principle, illustrated in *Preeti Gupta v. State of Jharkhand*³ and *Geeta Mehrotra v. State of U.P.*⁴, that Courts must be alive to the tendency, regrettably common in matrimonial litigation, to rope in every relative residing under, or even outside,

¹ 1992 Supp (1) SCC 335, para 102

² (2021) 19 SCC 401

³ (2010) 7 SCC 667

⁴ (2012) 10 SCC 741



the matrimonial roof, in the hope that a wider net will yield a larger settlement. That principle, however, is a shield for relatives who are named without particulars, not an umbrella for every relative regardless of the particulars pleaded against them. The modern restatements of that caution, *Kahkashan Kausar @ Sonam v. State of Bihar*⁵ and *K. Subba Rao v. State of Telangana*⁶, proceeded upon allegations that were general and omnibus; they offer no shelter where the accusations against the relative are particularised, as they are here. The two lines of authority, *Bhajan Lal* (supra) on the one hand, cautioning against premature quashing, and *Preeti Gupta* (supra) on the other, cautioning against reflexive prosecution of kin, are not in tension. In fact, they simply mark the two ends of the same spectrum, and the facts of a given case must locate themselves upon it.

13. Measured against this background, the case of the present Petitioner does not read, at least at the threshold, as one of mere relational proximity. Three features of the record resist an interpretation of innocent bystander status.

- i. First, the FIR and the charge-sheet material are stated to disclose a monetary trail and the transfer of a substantial sum into accounts held in the name of the Petitioner's own minor children. Money does not travel of its own accord; someone must open the account, someone must receive the transfer, and someone must account for its onward use. Whether the accounts

⁵ (2022) 6 SCC 599

⁶ (2018) 14 SCC 452



were operated by the Petitioner or managed entirely by her husband without her knowledge is a matter for the evidence ultimately led at trial; a charge-sheet allegation of this specificity is not liable to be brushed aside at the quashing stage. Once the investigation has culminated in a charge-sheet, the Court, as observed in *Kaptan Singh v. State of U.P.*⁷, cannot confine itself to the recitals of the FIR but must reckon with the material collected during investigation.

- ii. Second, the allegation is not confined to a solitary introduction before a solitary complainant. It is averred that the Petitioner was similarly presented as "Bhabhi, the doctor in USA," to more than one prospective bride, and that at least one other such marriage, with one Dolly Dutta, followed an identical script and yielded a comparable extraction of funds. A single misrepresentation might be explained away as the husband's independent embellishment; a misrepresentation repeated across victims in an identical form begins to look less like a family courtesy and more like a rehearsed act.
- iii. Third, this is not a prosecution under Section 498-A where the caution against implicating relatives on omnibus allegations operates with the greatest force. Rather, it is a case that principally invokes Sections 419, 420, 467, 468, 471 and 120-B of the I.P.C., offences of cheating, forgery and criminal conspiracy, in which the identity of every participant in the chain of

⁷ (2021) 9 SCC 35



deception, and the flow of the ill-gotten money through that chain, are matters peculiarly within the domain of trial. A conspiracy, by its nature, is rarely reduced to writing; as recognised in *Kehar Singh v. State (Delhi Administration)*⁸, it is inferred from conduct, association and the movement of money, which is precisely the species of inference that a Section 482 Court, confined to the four corners of the FIR and the charge-sheet, is not equipped to foreclose.

14. This is not to say that the Petitioner stands condemned by these observations, nor even that the prosecution's version must ultimately prevail. It remains entirely open to her to demonstrate, at trial or at the stage of discharge, that the accounts in her children's names were opened and operated exclusively by her husband; that she had no knowledge of the parallel marriages; and that her introduction as "Bhabhi" was nothing more than an innocent social courtesy extended by an errant husband without her privity. Innocence explained is innocence best proved before the trial Court, upon oath and subject to cross-examination.
15. It is also not lost on this Court that an arrest, and the pendency of a criminal trial, exact a real and personal cost particularly upon a person in public service. That cost, however, cannot by itself be the measure of whether an FIR discloses a triable offence; if it were, every accused with a career to protect would qualify for

⁸ (1988) 3 SCC 609



quashing, and Section 482 would cease to be an extraordinary jurisdiction and become an ordinary escape hatch.

16. On a conspectus of the above facts and circumstances, this Court is unable to hold that the present case falls within any of the categories carved out in *Bhajan Lal (supra)* so as to warrant interference at this threshold stage. The allegations, read as they stand, disclose the ingredients of a triable offence qua the Petitioner, and the question of her actual complicity, guilty participant or unwitting relative, must be answered by the trial Court upon evidence, and not foreclosed by this Court upon apprehension.
17. The CRLMC is, accordingly, dismissed, being devoid of merit. It is, however, clarified that the observations made herein are confined to the disposal of this application under Section 482 Cr.P.C. and shall not be construed as an expression of opinion on the merits of the case; the trial Court shall proceed to decide the matter uninfluenced by anything stated above. The Petitioner shall be at liberty to raise all available defences, including those urged before this Court, at the appropriate stage of the trial, including at the stage of charge.
18. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge