IN THE HIGH COURT OF ORISSA AT CUTTACK

A.F.R.

CRLMC No. 826 of 2026

(In the matter of an application under Section 528 of B.N.S.S., 2023 read with Section 482 of the Code of Criminal Procedure, 1973.)

Abhinava Dalua **....** ***Petitioner(s)***

-versus-

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

Advocates appeared in the case through Hybrid Mode**:**

For Petitioner(s) : *Mr. Meru Sagar Samantaray, Adv.*
Mr. Abinash Barik, Adv.

For Opposite Party(s) : *Mr. Niranjan Moharana, SC*
for the Department of Vigilance
Mr. Satya Ranjan Mulia, Adv.

CORAM:
DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-20.05.2026
DATE OF JUDGMENT:-25.06.2026

Dr. Sanjeeb K Panigrahi, J.

1. The petitioner has filed the present CRLMC No. 826 of 2026 seeking quashing of the FIR dated 29.08.2022, charge-sheet dated 27.10.2022 and final chargesheet dated 30.12.2022 arising out of Cuttack Vigilance Cell P.S. Case No. 6 of 2022, now pending as VGR Case No. 13 of 2022 before the learned Special Judge, Vigilance, Dhenkanal. Cognizance has been

taken against the petitioner for the alleged offence under Section 7 of the Prevention of Corruption Act, as amended in 2018. The case is essentially a vigilance trap case concerning alleged demand and acceptance of illegal gratification by the petitioner while he was posted as DSP/IIC, Dhenkanal Sadar Police Station.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:

(i) The prosecution case originates from a complaint lodged by Baidhar Behera, who claimed to be engaged in coal transportation from the Angul-Talcher side to Manguli Chhak. According to the complaint, the petitioner allegedly demanded ₹15,000 per truck per month, amounting to ₹30,000 for two trucks, for allowing the complainant's trucks to pass through his jurisdiction without obstruction. It was further alleged that the petitioner threatened to "court challan" the vehicles and send the complainant to jail if the monthly payment was not made.

(ii) On the basis of the complaint, the vigilance authorities organized a trap operation. During the trap, the accompanying witness allegedly gave a signal after demand and acceptance by the petitioner, whereafter the vigilance team entered the room. The petitioner's hand wash test result allegedly turned pink, and the petitioner was arrested. The alleged tainted cash was stated to have been recovered from the floor of the room inside a sealed envelope, on which truck registration numbers were written.

(iii) The petitioner had earlier approached the High Court in CRLMC No. 2354 of 2023 challenging the FIR and chargesheet on the ground of mala

fide and false implication. The High Court, by order dated 03.08.2023, disposed of the earlier CRLMC by observing that the contentions raised could be considered at the stage of framing of charge and granted liberty to the petitioner to move an application for discharge before the trial court. Thereafter, the petitioner also filed W.P.(C) No. 32597 of 2024 relating to supply of documents in the departmental proceeding, and pursuant to the High Court's order dated 16.01.2025, documents including sanction materials were supplied to him.

(iv) The present CRLMC has been filed after the petitioner obtained further materials from the department and from transport authorities through RTI. The dispute now centres around whether these subsequently obtained documents reveal such serious inconsistencies in the prosecution case that continuation of the criminal proceeding would amount to abuse of process, or whether these are disputed factual issues which must be tested only during trial or at the stage of charge.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

3. The Learned Counsel for the Petitioner Mr. Meru Sagar Samantaray earnestly made the following submissions in support of his contentions:

(i) The petitioner contends that the entire trap case is a false, engineered and mala fide proceeding, allegedly set up at the instance of persons connected with mining and coal transportation activities in the area. According to him, the prosecution story that the complainant needed the petitioner's permission or indulgence for movement of trucks is inherently doubtful because the vehicle details obtained later show that the trucks relied upon by the complainant were either not roadworthy,

not in operation, not under the complainant's effective control, or wrongly described in the prosecution papers.

(ii) The petitioner places heavy reliance on the vehicle records to argue that the foundation of the trap case is itself suspicious. It is contended that one truck bearing No. OD-04M-4595, allegedly belonging to the complainant, had already been repossessed by Tata Motors Finance on 14.04.2022 at Jalda, Rourkela; its national permit had been surrendered and cancelled on 12.08.2022; and its ownership was subsequently transferred. Therefore, according to the petitioner, the complainant could not have genuinely required police clearance for the said truck's coal transportation on 29/30.08.2022.

(iii) The petitioner further points to inconsistencies regarding the truck registration numbers appearing in the FIR, seizure lists, chargesheet and final chargesheet. According to him, the complaint and envelope containing the tainted cash refer to two trucks, whereas different portions of the chargesheet refer to three trucks, and there is confusion between OD-09H-4875 and OR-09H-4875. He also asserts that one of the numbers allegedly referred to a three-wheeler passenger auto, while another vehicle was without fitness, insurance, road permit and tax. On this basis, the petitioner argues that the prosecution version is not merely weak but fundamentally unreliable.

(iv) The petitioner contends that the vigilance team failed to conduct proper pre-trap verification regarding the complainant's antecedents, the actual existence and operational status of the trucks, and the genuineness of the alleged need for illegal gratification. According to him, public-

domain transport records were either ignored or suppressed during investigation, thereby raising serious doubts about fairness of investigation and showing that the criminal process was used as a vehicle for abuse of power.

(v) The petitioner also challenges the evidentiary worth of the alleged recovery. He argues that the tainted cash was not recovered from his conscious possession but from the floor of the room, making the recovery suspicious. He further submits that the lack of videography during the trap operation creates scope for planting of evidence, use of force or manipulation of the trap narrative. The petitioner therefore relies on the principle that mere recovery of tainted money is not sufficient unless demand and voluntary acceptance of illegal gratification are established.

(vi) The petitioner invokes judgments such as ***Neeraj Dutta v. State Govt. of NCT of Delhi***[1], ***P. Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh***[2], ***State of Kerala v. C.P. Rao***[3] and ***Raghbir Singh v. State of Punjab***[4] to contend that proof of demand and acceptance is indispensable under Section 7 of the Prevention of Corruption Act. He argues that the prosecution case is based on interested and hand-picked witnesses, that other truck owners were not made witnesses, and that the complainant's motive has not been fairly investigated. Therefore, according to him, the case suffers from serious legal and factual infirmities justifying quashing at the threshold.

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[1] (2023) 4 SCC 731
[2] (2015) 10 SCC 152
[3] 2012 AIR SCW 2879
[4] AIR 1976 SC 91

(vii) The petitioner also submits that the present CRLMC is not a mere repetition of the earlier CRLMC because the present challenge is based on materials supplied by the department and obtained from RTO authorities after the earlier High Court order dated 03.08.2023. According to him, the new material now available demonstrates abuse of process and false implication, and therefore the High Court's extraordinary jurisdiction can be invoked notwithstanding the earlier liberty to raise the issues at the stage of discharge.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

4. The Learned Counsel for the Opposite Parties Mr. Niranjan Moharana, Standing Counsel for the Vigilance Department earnestly made the following submissions in support of his contentions:

(i) The opposite party/informant contends that the present petition is not maintainable because the petitioner had already approached the High Court earlier in CRLMC No. 2354 of 2023 and the Court had disposed of that application by granting liberty to raise all available contentions before the trial court at the stage of framing of charge. According to the opposite party, instead of obeying that order and approaching the trial court for discharge, the petitioner has again filed a fresh CRLMC with substantially the same prayer for quashing of the criminal proceeding.

(ii) The opposite party submits that this is a trap case where the prosecution has already collected material showing demand and acceptance of illegal gratification. It is asserted that the complainant's statement was recorded under Section 164 Cr.P.C., and that the trap operation resulted in recovery of tainted money after the alleged

demand and acceptance. Therefore, according to the opposite party, the case contains sufficient material for trial and cannot be quashed merely on the basis of the petitioner's defence.

(iii) The opposite party further relies on the fact that the hand wash test result of the petitioner turned pink during the trap operation. According to the opposite party, this circumstance is a significant incriminating material which the petitioner must explain during trial. The opposite party therefore argues that the petitioner cannot seek premature quashing by asking the High Court to appreciate disputed facts, weigh the evidence, or accept his explanation before the prosecution has been allowed to prove its case.

(iv) The opposite party disputes the petitioner's reliance on RTI documents and transport records at the quashing stage. It is contended that documents obtained under the RTI Act cannot automatically be treated as proved evidence in a criminal proceeding unless they are properly exhibited, proved through competent witnesses, and tested by cross-examination. Therefore, according to the opposite party, the authenticity, relevance and evidentiary value of such documents are matters for trial and not grounds for quashing the proceeding at the threshold.

(v) The opposite party also contends that the petitioner is attempting to delay the trial by repeatedly invoking the inherent jurisdiction of the High Court. Since cognizance has already been taken, chargesheet has been submitted after investigation, and the earlier CRLMC was disposed of with liberty to raise all issues before the trial court, the

present petition is described as a deliberate and repeated attempt to stall the criminal proceeding. On this basis, the opposite party prays that the CRLMC be dismissed in limine.

IV. JUDGMENT AND ANALYSIS:

5. Heard Learned Counsel for the parties and perused the documents placed before this Court.

6. Before turning to the rival contentions, it is necessary to recall the modest compass within which this Court must move. A petition under Section 482 does not open the doors of a trial. Rather, it tests only whether the prosecution, as it presently stands, deserves to reach those doors at all.

7. The present petition under Section 482 CrPC seeks quashing of the FIR dated 29.08.2022, the chargesheet dated 27.10.2022, the final chargesheet dated 30.12.2022, and the consequential proceeding in VGR Case No. 13 of 2022 pending before the learned Special Judge, Vigilance, Dhenkanal. The challenge is founded on the plea that, after the earlier order of this Court in CRLMC No. 2354 of 2023, the petitioner has procured further departmental materials and transport records through RTI which, according to him, expose the vigilance trap case as false and engineered. The opposite parties, on the other hand, contend that the prosecution materials already disclose demand and acceptance of illegal gratification, that the complainant's statement under Section 164 CrPC and the trap materials are available, and that the petitioner is

attempting to have this Court undertake a factual evaluation which belongs to the trial court.

8. I am not inclined to non-suit the petitioner solely on the ground that liberty had earlier been granted to move for discharge. The Supreme Court has made it clear in ***G. Sagar Suri v. State of U.P.***[5]***,*** that the availability or pendency of a discharge remedy does not by itself oust the jurisdiction of the High Court under Section 482 CrPC. At the same time, where an earlier order has already relegated the accused to the charge stage, the High Court must exercise evident restraint and should not permit Section 482 to become a surrogate for a discharge proceeding. The Court held as follows:

> *"Jurisdiction under Section 482 of the Code has to be exercised with a great care. In exercise of its jurisdiction High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code, Jurisdiction- under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."*

9. Now, with regard to limits of inherent jurisdiction, the governing principles are well settled. ***State of Haryana v. Bhajan Lal***[6] identifies the illustrative categories in which quashing may be justified. Moreover,

[5] 2000 2 SCC 636
[6] 1992 Supp 1 SCC 335

in ***Amit Kapoor v. Ramesh Chander***[7]***,*** the Supreme Court has reiterated that quashing of charge or prosecution is an exception, that the Court must see whether the uncontroverted allegations prima facie disclose the offence, and that a meticulous evaluation of evidence is impermissible at that stage. The relevant excerpts are produced below:

> *"Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie."*

10. Likewise, in ***Central Bureau of Investigation v. Aryan Singh***[8]***,*** the Supreme Court further cautioned that the High Court cannot conduct a mini trial, cannot record findings on disputed facts, and cannot test the defence as though the matter were being finally decided after evidence. The relevant excerpts are produced below:

> *"From the impugned common judgment and order passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned Trial Court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr.P.C., the Court is not required to conduct the mini trial. The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is*

[7] 2012 9 SCC 460
[8] 2023 18 SCC 399

not the stage where the prosecution / investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution / investigating agency. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/or while exercising the powers under Section 482 Cr.P.C., the Court has a very limited jurisdiction and is required to consider "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not"."

11. The only limited window for looking at material produced by the accused. The law does, however, leave open a single narrow window through which the accused's own material may be examined at the threshold, and its dimensions were carefully examined in ***Rajiv Thapar v. Madan Lal Kapoor***[9]. The material must be sound, reasonable, indubitable, and of sterling and impeccable quality. It must completely rule out the prosecution version, be incapable of justifiable refutation, and make continuation of the prosecution an abuse of process. If the material merely creates doubt, opens a line of defence, or requires evidentiary proof and cross examination, quashing is not warranted. The Court held as follows:

> *"23. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:*

[9] 2013 3 SCC 330

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused."

12. Now, this Court must turn to Section 7 of the Prevention of Corruption Act. There can be no quarrel with the legal proposition pressed by the petitioner that proof of demand and acceptance is central to a conviction under Section 7 of the Prevention of Corruption Act. In ***Neeraj Dutta v. State Govt of NCT of Delhi***[10]**,** the Constitution Bench summarised that proof of demand and acceptance is a sine qua non, that mere recovery is

[10] 2023 4 SCC 731

not enough, and that presumptions can arise only once foundational facts are proved. The Court held as follows:

> *"What emerges from the aforesaid discussion is summarised as under:*
> *(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13 (1)(d)(i) and(ii) of the Act.*
> *…."*

13. ***P. Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh***[11], states the same in clear terms. The later decisions in ***K. Shanthamma v. State of Telangana***[12], and ***Soundarajan v. State represented by the Inspector of Police***[13], reiterate that demand of gratification is not a mere demand for money and that recovery de hors proof of demand is insufficient for conviction.

14. But those authorities address the standard for conviction after evidence is recorded, tested, and appreciated. ***K. Shanthamma*** (supra) was a criminal appeal after trial, where the Supreme Court assessed inconsistencies in the prosecution evidence and found that the demand or acceptance had not been proved beyond reasonable doubt. That standard cannot be mechanically transplanted to a Section 482 challenge against an FIR and chargesheet. At this stage, the Court is not to decide whether the prosecution will ultimately succeed. The only question is whether the prosecution materials, taken as they stand, disclose the offence and justify the accused being put to trial.

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[11] 2015 10 SCC 152
[12] 2022 4 SCC 574
[13] 2023 16 SCC 141

15. It is well to remember that doubt and certainty do not occupy the same place in this jurisdiction. Doubt is the very material of a trial. It is raised, tested, and resolved through the examination of witnesses and the scrutiny of documents. Certainty of the kind that can halt a prosecution at its inception is of an altogether higher order, for it must leave no room for the case to be proved at all. Material that unsettles the prosecution is therefore not the same as material that destroys it. The first invites a trial; only the second forecloses one. A Court asked to quash must satisfy itself that what it confronts is the latter, and not a promising foundation for cross-examination dressed in the language of impossibility.

16. Tested on the above standard, the documents relied on by the petitioner do not satisfy the required threshold. Even if the transport records regarding repossession of truck No. OD-04M-4595, surrender or cancellation of permit, transfer of ownership, lack of fitness, insurance, tax, or the alleged mismatch in registration marks are taken at face value, they do not lead to the indubitable conclusion that the vigilance case is impossible or fabricated. At the highest, they arm the petitioner with a substantial line of defence that the complainant had misstated the status of the vehicles, that his transport narrative was doubtful, or that his motive requires closer scrutiny. Material of this kind may bruise the prosecution, but it does not result in a breakdown. Only the latter justifies quashing, whereas the former belongs to trial.

17. The remaining discrepancies as submitted by the petitioner stand on the same footing. The complaint refers to two trucks where other parts of

the record refer to three. One registration number appears as "OD" in some places and "OR" in others, and another is said to belong to an altogether different class of vehicle. The tainted money is said to have been recovered from the floor rather than from the petitioner's hand, the trap was not recorded on video, the pre-trap verification is alleged to have been incomplete, and the other truck owners were never examined as witnesses. Each of these may, as the petitioner contends, point to a fabricated case. They may equally turn out to be clerical errors or innocuous gaps in the investigation. Which of the two it is cannot be determined on the strength of rival affidavits. It can be answered only after the witnesses are examined and tested in cross-examination.

18. The petitioner's argument of mala fides also cannot carry the matter to quashing on the present record. ***Bhajan Lal*** (supra) itself makes clear that mala fides or personal animus is only one illustrative category and does not justify quashing where the allegations, taken at face value, disclose a cognizable offence. The judicial precedents have repeatedly said that the Court cannot, at a premature stage, anticipate the result of the trial and render a conclusive finding on the plea of false implication merely on the basis of the accused's rival narrative. If the prosecution materials disclose the offence, the plea of vendetta has to be tested on evidence.

19. There is another difficulty in the petitioner's way. At the pre-trial stage, the accused cannot seek adjudication of his defence material or invite the Court to conduct a mini-trial. The Court is required to proceed on the assumption that the prosecution material is true, examine only

whether the basic ingredients of the alleged offence are disclosed, and refrain from undertaking a roving enquiry into the merits, contradictions or probable defence. If such restraint governs even the stage of discharge, the inherent jurisdiction under Section 482 must necessarily be exercised with still greater caution, particularly in a trap case where the prosecution already alleges demand, acceptance, positive hand-wash test result and recovery pursuant to the pre-arranged signal.

V. CONCLUSION:

20. The inherent jurisdiction cuts both ways. It is meant to stop the abuse of the court's process, but also to ensure that a genuine prosecution is not strangled in its cradle. A Court that quashes too quickly saves the accused from harassment only by saving the guilty from trial. Where the materials, taken as they stand, disclose a cognizable offence, restraint is not caution but justice.

21. For all the aforesaid reasons, this Court is unable to hold that the present case falls within any of the recognised categories warranting quashing. The allegations in the FIR and the materials collected in investigation, if taken at their face value, do disclose a prima facie case under Section 7 of the Prevention of Corruption Act. The subsequently obtained materials relied upon by the petitioner do not possess the conclusive character required to completely displace the prosecution at the threshold. They raise issues of credibility and evidentiary weight, which must be tested before the trial court in accordance with law.

22. Accordingly, the CRLMC stands **dismissed**.

23. It is, however, clarified that the observations made herein are only for the purpose of deciding the present petition under Section 482 CrPC and shall not be construed as an expression on the merits of the accusation or the defence.

24. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated 25th June, 2026/