



IN THE HIGH COURT OF ORISSA AT CUTTACK

A.F.R.**CRLMC No.1496 of 2025**

(In the matter of an application under Section 482 of Criminal Procedure Code, 1973/Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023).

Akhaya Kumar Rout & Anr. *Petitioner(s)*

-versus-

State of Odisha (Vigilance) *Opposite Party (s)*

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Uma Charan Mishra, Adv.*

For Opposite Party (s) : *Mr. Niranjan Moharana,*
Addl. Standing Counsel (Vigilance)

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING: -30.03.2026

DATE OF JUDGMENT:-22.05.2026

Dr. Sanjeeb K Panigrahi, J.

1. The Petitioners have filed the present CRLMC under Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, invoking the inherent jurisdiction of this Court for quashing of the entire criminal proceedings in V.G.R. Case No.47 of 2015 pending before the learned Special Judge (Vigilance), Bhubaneswar, including the order dated 11.12.2017 whereby further investigation was directed under Section 173(8) Cr.P.C.

I. FACTUAL MATRIX OF THE CASE:

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



- (i) While Petitioner No.1 was working as Tahasildar, Baranga and Petitioner No.2 was functioning as a private Amin, a Vigilance P.S. Case No.40 dated 03.09.2015 was registered under Section 7 of the Prevention of Corruption Act, 1988 on the allegation of demand of illegal gratification of Rs.4,00,000/-, out of which Rs.50,000/- was to be paid as first instalment.
- (ii) A trap was accordingly laid by the Vigilance authorities. It is alleged that on the instruction of Petitioner No.1, the bribe amount of Rs.50,000/- was handed over to Petitioner No.2. However, during the trap, the tainted currency notes could not be recovered.
- (iii) Upon completion of investigation, the Investigating Officer submitted Final Report No.40 dated 24.12.2016 stating that due to non-recovery of tainted money and lack of corroboration from the overhearing witness, no prima facie case was made out.
- (iv) The learned Special Judge (Vigilance), Bhubaneswar, however, vide order dated 11.12.2017, declined to accept the Final Report and directed further investigation under Section 173(8) Cr.P.C.
- (v) It is not in dispute that thereafter, despite repeated directions of the learned trial Court on multiple occasions, no final form has been submitted for a considerable length of time.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

3. Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions:

- (i) Demand, acceptance and recovery are the three essential elements of the offence for conviction of an accused U/s-13(i)(d) read with Section 13(2) of the PC. Act, 1988, as laid down by the Supreme Court in



*State of Lokayuktha Police, Davanagere v. C.B. Nagaraj*¹.

Therefore, the Opposite Party had rightly filed the closure report before the learned trial Court vide Annexure-2. However, the learned trial Court, instead of accepting Annexure-2, directed further investigation vide Annexure-3, which is per se illegal, inasmuch as no recovery of the tainted notes was made at the spot on the date of the trap, thereby causing the alleged offence to fail. Neither the Vigilance nor the complainant had ever prayed for further investigation. Under such circumstances, the learned Trial Court, in the absence of *corpus delicti*, directing further investigation on 11.12.2017 and thereafter on 30 occasions asking the Vigilance to submit the final form, amounts to a miscarriage of justice.

- (ii) The Opposite Party has failed to recover the tainted notes since 03.09.2015 till date; hence, the order dated 11.12.2017 (Annexure-3) has become redundant and obsolete. Therefore, the continuance of VGR Case No.47 of 2015 in the Court of the learned Special Judge, Vigilance, Bhubaneswar, amounts to an abuse of the process of law.
- (iii) The Opposite Party, in its counter, has taken a stand that the demand by Petitioner No.1 and constructive acceptance by Petitioner No.2 were established during the trap proceedings; however, the counter is silent as to where the trap money went and why the Opposite Party did not comply with the direction of the learned trial Court dated 11.12.2017 for a prolonged period of 8 years. The law is well settled by this Court in its recent Judgment dated 27.02.2026 in *Dr. Rabindra Kumar Jena & Prof. (Dr). Truptirekha Swain v. State of*

¹2025 INSC 736



*Odisha (Vigilance)*² wherein at Para-26, it has been held that a delay of more than nine years in investigation since the registration of F.I.R. is sufficient ground to quash criminal proceedings. Accordingly, this Court has quashed the vigilance case therein.

- (iv) The well-accepted maxim "*interest reipublicae ut sit finis litium*" means "it is in the interest of the State that there be an end to litigation." Therefore, the continuance of the present criminal proceeding vide VGR No.47 of 2015, pending before the Court of the learned Special Judge, Vigilance, Bhubaneswar since 03.09.2015 for more than 11 years without any fruitful result, amounts to an abuse of the process of law. Hence, this Court may kindly quash the same.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY:

4. The Learned Counsel for the Opposite Party earnestly made the following submissions in support of his contentions:
- (i) On the basis of the allegations made by the complainant against the petitioners, an FIR was registered. After following the pre-trap procedures, a preparation report was prepared and signed by the complainant and other witnesses, affirming the contents therein.
- (ii) Thereafter, a trap was laid in the presence of witnesses. During the trap, it transpired that at about 3:30 p.m., the complainant and the overhearing witness, named Chiranjib Pattnaik, went to the rest room of Petitioner No.1. Upon seeing the complainant, Petitioner No.1 asked whether he had brought the demanded bribe money, to which the complainant replied in the affirmative. Petitioner No.1 then instructed the complainant to hand over the bribe money to another

²CRLMC No.3829/2025 and 3682 of 2024 decided on 13.03.2026



person present there, i.e., Petitioner No.2, who accepted Rs.50,000/- from the complainant as per the instructions of Petitioner No.1.

- (iii) Upon confrontation, Petitioner No.2 admitted having accepted the bribe money at the instance of Petitioner No.1. The hand-wash of Petitioner No. 2 tested positive.
- (iv) Petitioner No.2 had been engaged by Petitioner No.1 as a private Amin. Soon after accepting the bribe money and before the vigilance team reached the spot, Petitioner No.2 handed over the tainted money to another person, due to which the tainted notes could not be recovered despite search.
- (v) In the aforesaid circumstances, a Final Report vide F.F. No.40 dated 24.12.2016 was submitted before the learned trial Court due to non-recovery of the tainted currency notes and the failure of the overhearing witness to support the prosecution.
- (vi) By order dated 11.12.2017, the learned Special Judge did not accept the Final Report on the ground that the Investigating Officer had submitted it solely due to non-recovery of the tainted notes, while ignoring the evidence of demand and acceptance and the nature of the allegations. Accordingly, the Court directed further investigation under Section 173(8) of the Cr.P.C.
- (vii) Pursuant to the said order, further investigation was conducted. During this process, additional witnesses were examined. Taking into account the proof of demand and constructive acceptance of the bribe by Petitioner No.1 through Petitioner No.2 (as stated by the complainant), along with fresh evidence that emerged on 22.01.2026 regarding the manner in which the tainted currency notes



disappeared (based on the statement of Biswajit Sahoo, driver of the Bolero bearing No. OD-33A3393 used by Petitioner No.1), and the positive hand-wash result of Petitioner No.2, the culpability of the petitioners is clearly established. The investigation has now been completed and the Investigating Officer is taking steps to submit the final form in accordance with law.

- (viii) Petitioner No.1 is also involved in another case relating to possession of disproportionate assets, vide Bhubaneswar Vigilance P.S. Case No.55/2015, wherein a charge sheet has been submitted (C.S. No.39 dated 30.12.2022) and the case is pending trial. This further indicates the corrupt practices of Petitioner No.1.
- (ix) It is well settled that in trap cases, the essential elements of demand and acceptance of illegal gratification can be proved through the complainant and/or other witnesses, even if the overhearing witness turns hostile, as in the present case.
- (x) In view of the facts and circumstances and the materials available on record, viz., the FIR, preparation report, detection report, statements of the complainant, trap-laying officer and other witnesses collected during further investigation, the proof of demand and constructive acceptance of the bribe by Petitioner No.1 through Petitioner No.2 is clearly established. The manner in which the tainted currency notes disappeared (as per the statement of Biswajit Sahoo) and the positive hand-wash test of Petitioner No.2 further substantiate the case against the Petitioners.
- (xi) Hence, there is no illegality in the impugned order dated 11.12.2017 passed by the learned trial Court. Furthermore, the continuance of



the criminal proceedings is lawful. Accordingly, the present CRLMC deserves to be dismissed.

IV. COURT'S REASONING AND ANALYSIS:

5. Having heard learned counsel for the parties at length, and upon a thorough perusal of the pleadings, documents on record, the impugned order dated 11.12.2017, and the rival submissions advanced, the following substantial questions of law arise for this Court's determination:

(i) *Whether the learned Special Judge (Vigilance), Bhubaneswar, was legally justified in directing further investigation under Section 173(8) of the Code of Criminal Procedure, 1973 ("Cr.P.C."), notwithstanding the submission of Final Report No. 40 dated 24.12.2016 ?*

(ii) *Whether, in a trap proceeding instituted under the Prevention of Corruption Act, 1988, the mere non-recovery of tainted currency notes, ipso facto, vitiates the foundational substratum of the prosecution case?*

(iii) *Whether the inordinate and protracted pendency of investigation pursuant to an order for further investigation constitutes a patent abuse of the process of the court, thereby warranting the exercise of inherent jurisdiction under Section 482 Cr.P.C./Section 528 of the BharatiyaNagarikSurakshaSanhita, 2023 ("BNSS") ?*

6. At the threshold, this Court remains cognizant of the settled jurisprudential principles governing the invocation of inherent powers under Section 482 Cr.P.C. This extraordinary jurisdiction, though plenary in nature, need to be exercised with due circumspection, restraint, and abundant caution. Its application is strictly confined to the statutorily prescribed grounds that are to give effect to any order under the Code, to prevent an abuse of the process of any court, or otherwise to secure the ends of justice. It is a cardinal principle that the Court, in the exercise of this jurisdiction that it does not ordinarily venture into the appreciation of evidentiary materials



or adjudicate upon disputed questions of fact, matters that are quintessentially within the province of a full-fledged trial.

7. The principal substratum of the petitioners' contention is that the failure to recover the tainted currency notes during the trap operation eviscerates the very *corpus delicti* of the offence. Consequently, they argue, the perpetuation of criminal proceedings amounts to a gross abuse of the legal process. While this submission carries a superficial allure, it fails to withstand rigorous juridical scrutiny.
8. It is now a trite proposition of law that in offences punishable under the Prevention of Corruption Act, 1988, the gravamen of the offence resides in the demand and acceptance of illegal gratification. The recovery of tainted money undoubtedly serves as a potent piece of corroborative evidence; however, it is not the sole sine qua non for sustaining a prosecution. In appropriate cases, the twin facets of demand and acceptance may be legitimately established through a constellation of surrounding circumstances, the oral testimony of credible witnesses, and other incriminating materials unearthed during the investigative process.
9. In the sub judice matter, the materials on record prima facie indicate that the complainant levied a specific allegation regarding the demand of illegal gratification by Petitioner No. 1. It is further alleged that during the trap proceeding, the complainant handed over the tainted amount to Petitioner No. 2, acting pursuant to the instructions of Petitioner No. 1. The prosecution asserts that Petitioner No. 2 subsequently acknowledged receipt of the amount on behalf of Petitioner No. 1, a fact purportedly corroborated by a positive hand-wash test. The prosecution narrative



further suggests the tainted notes were allegedly passed on to a third party before the trap team could effectuate their physical recovery.

10. This Court cannot remain oblivious to the fact that the learned Special Judge, while declining to accept the Final Report, assigned cogent and reasoned grounds. The order underscored that the Investigating Officer had myopically concentrated on the non-recovery of the tainted money, while conspicuously overlooking other incriminating circumstances pertaining to demand and acceptance. The power of a Magistrate or a Special Judge to direct further investigation under Section 173(8) Cr.P.C. is no longer *res integra*. This power is imbued with the purpose of advancing the cause of justice and ensuring an investigation that is comprehensive, fair, and effective. Ergo, the mere absence of a formal prayer for further investigation from either the Vigilance Department or the complainant does not *per se* divest the Court of its inherent jurisdiction to issue such a direction if the factual matrix so warrants.
11. The petitioners' ancillary contention that the impugned order dated 11.12.2017 has been rendered otiose by the efflux of time is equally unpersuasive. While inordinate delay in investigation is inherently undesirable and may potentially cause prejudice, it cannot, *ipso facto*, lead to the quashing of proceedings unless the Court concludes, with a high degree of certainty, that their continuation would be manifestly oppressive, *mala fide*, or utterly devoid of a legal foundation.
12. Admittedly, the present litigation has been marred by considerable procedural delay subsequent to the order directing further investigation. The record reveals a pattern of repeated adjournments and prolonged pendency without the submission of a final report. Such institutional



torpor undoubtedly merits serious judicial concern. The expansive guarantee under Article 21 of the Constitution enshrines the right to a fair, just, and expeditious investigation and trial. Investigating agencies are duty-bound to act with alacrity and a sense of responsibility, particularly, in corruption cases involving public servants, where societal confidence in institutional probity hangs in the balance.

13. However, the subsequent developments brought to this Court's notice by the Vigilance Department cannot be summarily discounted at this interlocutory stage. It has been specifically averred that during the course of the further investigation, additional evidence surfaced on 22.01.2026 concerning the disappearance of the tainted currency notes, based on the statement of one Biswajit Sahoo, the driver of the vehicle allegedly utilized by Petitioner No. 1. The Vigilance authorities have further affirmed that the further investigation now stands formally concluded, and administrative steps are underway for the submission of the final form.
14. At this juncture, it is not for this Court, in the exercise of its inherent jurisdiction, to embark upon a meticulous evaluation of the probative value, credibility, or ultimate admissibility of such materials. Whether the newly discovered evidence will inspire judicial confidence, whether the doctrine of constructive acceptance is legally sustainable on the facts; whether the prosecution will discharge its burden of proving the foundational facts beyond a reasonable doubt and whether the absence of physical recovery materially cripples the prosecution case are all contentious issues that squarely fall within the exclusive domain of the trial court.



15. The petitioners' reliance on the precedent in *Dr. Rabindra Kumar Jena & Prof. (Dr.) Truptirekha Swain v. State of Odisha (Vigilance)* (supra) is distinguishable on facts. In that case, this Court found that despite an extraordinary lapse of time, there was a complete absence of meaningful investigative progress, thereby rendering the continuation of proceedings oppressive. In stark contrast, in the instant case, the Vigilance Department has categorically asserted the completion of further investigation, accompanied by the discovery of additional incriminating materials. Thus, the factual substratum herein rests on a fundamentally different footing.
16. Equally untenable is the petitioners' endeavor to transform these proceedings under Section 482 Cr.P.C. into a veritable mini-trial. Defense pleas regarding the absence of *corpus delicti*, the purported unreliability of witnesses, the non-support of an overhearing witness, and the alleged inherent improbability of the prosecution's version are all matters that necessitate a thorough evidentiary appreciation through cross-examination and the trial process. The inherent jurisdiction of this Court cannot be converted into an appellate forum for weighing the sufficiency or insufficiency of evidence.
17. Concomitantly, this Court cannot remain impervious to the profound delay that has plagued this matter since its inception in 2015. Investigative lassitude erodes public trust in the criminal justice delivery system. Such delay not only defeats the rights of the accused to a speedy trial but also undermines the profound societal interest in the effective prosecution of corruption offences. The State is therefore enjoined to ensure that as the further investigation has now been admittedly completed, the



consequential final form is submitted before the learned court below within a strictly time-bound framework.

18. This Court is guided by the enduring constitutional principle that corruption by public servants strikes at the very heart of democratic governance and institutional integrity. Allegations pertaining to the demand and acceptance of illegal gratification cannot be lightly interdicted at the threshold, especially when the materials collected disclose prima facie circumstances that warrant a thorough judicial examination during trial.
19. Upon an integrated consideration of the foregoing analysis, this Court is of the considered opinion that the impugned order dated 11.12.2017, directing further investigation, does not suffer from any patent illegality, jurisdictional error, or perversity that would warrant interference under Section 482 Cr.P.C./Section 528 BNSS. The materials collected during the investigation, when taken at their face value and accepted as true, cannot, at this preliminary stage, be characterized as so absurd, inherently improbable, or prepotent of a falsehood so as to justify the quashing of the entire proceeding.
20. Nevertheless, in balancing the competing and equally compelling imperatives of a fair, complete investigation and the petitioners' indefeasible right to expeditious justice, this Court deems it appropriate to issue a specific direction. The Investigating Agency is hereby directed to submit the final form, if not already submitted, before the learned Special Judge (Vigilance), Bhubaneswar, within a period of eight weeks from the date of communication of this order. Upon such submission, the learned



court below shall proceed with the matter in accordance with law, ensuring utmost expedition.

21. In fine, the Criminal Misc. Case, being devoid of merit, stands dismissed.
No order as to costs.
22. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 22nd May, 2026/