



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.961 of 2025

Priyam Pratham Sabat **Petitioner**
Mr. S. N. Das, Advocate

-Versus-

State of Odisha **Opposite Party**
Ms. B. Dash, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
15.12.2025

Order No.

03.

1. Heard learned counsel for the respective parties.
2. Instant revision petition is filed by the petitioner assailing the impugned order of cognizance dated 29th August, 2025 at Annexure-4 passed in connection with G.R. Case No.287 of 2025 by the learned J.M.F.C., Digapahandi corresponding to Digapahandi P.S. Case No. 232 dated 25th June, 2025 registered under Sections 316(5) and 318(4) of BNS on the grounds stated therein.
3. Mr. Das, learned counsel for the petitioner submits a copy of the F.I.R. at Annexure-1 would submit that the learned court below could not have taken cognizance of both the offences simultaneously and therefore, the impugned order at Annexure-4 cannot be sustained in law. In support of such contention, Mr. Das, learned counsel cited a decision of the Apex Court in **Delhi Race Club (1940) Ltd. and others Vrs. State of Uttar Pradesh and others 2024 8 SCR 670** and



Arshad Neyaz Khan Vs. State of Jharkhand and others

2025 (4) Crimes 99 (SC) with the submission that the order of cognizance dated 29th August, 2025 i.e. Annexure-4 is per se illegal.

4. Recorded the submission of Ms. Dash, learned ASC for the State.

5. Gone through the contents of the F.I.R. i.e. Annexure-1, wherein, the details of the circumstances leading to the lodging of the report have been described with the allegation that there is misappropriation for an amount of Rs.70 lac by the petitioners.

6. In **Delhi Race Course** (supra), it has been concluded by the Apex Court that both the offences cannot co-exist, when the allegation is one of the breach of trust and the other one is for cheating. A similar view has been expressed in **Arshad Neyaz Khan** (supra), wherein, the other decision has been referred to with a detailed discussion regarding the nature of offences, such as, criminal breach of trust and cheating and the essential ingredients therein with the conclusion that there may not be instant intention to commit the breach of trust, whereas, with regard to the offence of cheating, criminal intention is necessary at the time of making false and misleading representation and it would be from the very inception.

7. On a bare reading of the impugned order as at Annexure-4, the Court finds that there has been no such discussion by the learned court below, rather, the Court finds



the order on dated 29th August, 2025 to be a cryptic one. It appears that the learned court below has not properly considered the materials on record along with a chargesheet to reach at a definite conclusion as to which of the two offences have been committed by the petitioner. In other words, it can be said that there has been no judicial application of mind by the learned court below, hence, the decision as per Annexure-4 needs a revisit keeping in view the settled position of law and the citations referred hereinbefore. So, the conclusion of the Court is that the impugned order dated 29th August, 2025 at Annexure-4 cannot be upheld and therefore, it shall have to be set at naught with the direction as hereinbelow.

8. Accordingly, it is ordered.

9. In the result, the impugned order at Annexure-4 passed in connection with G.R. Case No.287 of 2025 is hereby set aside with a direction to the learned J.M.F.C., Digapahandi to reconsider taking cognizance of the offence vis-à-vis the petitioner and to pass a reasoned order reflecting upon the materials on record and keeping in view the observations made and the settled legal position of law discussed hereinabove.

10. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

Balaram