

**A.F.R.**



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2866 of 2025

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

*Subash Chandra Panda* .... *Petitioner(s)*  
-versus-  
*State of Odisha & Ors* .... *Opposite Party (s)*

Advocates appeared in the case through Hybrid Mode:

*For Petitioner(s)* : *Mr. Anirban Tripathy, Adv.*

*For Opposite Party (s)* : *Mr. Sonak Mishra, ASC*  
*Mrs. Sarita Moharana, ASC*  
*Mr. Surya Mohapatra, Adv.*  
*Mr. S. Subham, Adv.*

**CORAM:**

**DR. JUSTICE SANJEEB K PANIGRAHI**

**DATE OF HEARING:-21.04.2026**

**DATE OF JUDGMENT:-15.05.2026**

**Dr. Sanjeeb K Panigrahi, J.**

1. The Petitioner, in the present petition, challenged the illegal implication of the Petitioner in the case and praying for quashing of the F.I.R. and subsequent Criminal Proceedings in relation to P.S. Case No. 329 of 2021 and proceedings of Criminal Revision Application No. 13 of 2025 pending before the Learned Sessions Court at Balasore, to



quash and set aside the Order dated 11.07. It is pertinent to note that the F.I.R. does not disclose any prima facie case regarding the implication of the Petitioners in the aforementioned case.

**I. FACTUAL MATRIX OF THE CASE:**

2. The Petitioner is the father of the Proforma Opposite Party No. 1 and the husband of Proforma Opposite Party No. 2. The Opposite Party No. 2 is the wife of Proforma Opposite Party No 1, who got married on 04.02.2018.
3. Subsequently, the Proforma Opposite Party No 1 filed a petition for divorce at Family Court, Cuttack which was later transferred to the Family Court at Balasore and numbered CP 275 of 2021. The Proforma Opposite Party No. 1 and the Opposite Party No. 2 were then referred to Mediation/Counselling which failed on 04.10.2021. Then on 05.10.2021, the Opposite Party No. 2 filed DV Miscellaneous Petition No 150 of 2021 under Section 12 of the Protection of Women from Domestic Violence Act 2005, against the Petitioner and Proforma Opposite Parties at JMFC Court Balasore.
4. Further on 11.10.2021, the Opposite Party No. 2 also lodged a Complaint with the Sadar Police Station, Balasore, against the Petitioner and the Proforma Opposite Parties and registered FIR vide P.S Case No 329 of 2021, under Sections 498 A, 294, 323, 406, 506, 34 of the Indian Penal Code and under Section 4 of the Dowry Prohibition Act. This FIR has now metamorphosed into CT Case No 869 of 2021 and the chargesheet was filed before the Court of Judicial Magistrate First Class at Balasore on 09.05.2022. In



furtherance of which the Petitioner and the Proforma Opposite Parties applied for Bail before the JMFC Court Balasore and were granted Bail vide Order dated 22.11.2022.

5. Consequently, an application under Section 437(5) of the Cr.P.C for cancellation of bail was filed before the Ld. JMFC, Balasore by the Opposite Party No. 2. The Ld. JMFC, vide order dated 31.01.2025, dismissed the said application on merits and warned both the parties not to file this type of frivolous and vexatious petitions of similar nature in future without verifying proper proof.
6. Aggrieved by the said order dated 31.01.2025, the public prosecutor preferred Criminal Revision No. 13 of 2025 before the Ld. Sessions Judge, Balasore in which the Petitioner raised preliminary objection with regard to the jurisdiction of the Sessions Court to decide the criminal revision application in the light of the express bar provided in Section 397(2) and stated an application for bail or an application for the cancellation of bail are interlocutory applications and orders passed thereupon are interlocutory orders; therefore no revision against such orders would lie. The Ld. Sessions Judge vide Order dated 11.07.2025 rejected the preliminary objections raised by the Petitioner and held that the Order dated 31.01.2025 cannot be held to be an Interlocutory Order. (Impugned Order)
7. Aggrieved by this Impugned Order dated 11.07.2025 passed in Criminal Revision Application No 13 of 2025 by the Sessions Judge,



Balasore, the petitioner is challenging the legality and validity of the same before this court. Hence this Petition.

## II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

8. The learned Counsel for the Petitioner earnestly made the following submissions in support of their contentions:
  - i. The Opposite Party No. 2 seems to have misunderstood the observation and she has misconstrued the above observation as an embargo to filing petitions. The Opposite Party No.2 has failed to realise that there is a distinction between filing petitions and filing frivolous and vexatious petitions.
  - ii. The Opposite Party No.2 is not being restrained from filing petitions but is being told not to file frivolous and vexatious petitions. It is further submitted that while the right to file petition is a fundamental right, there is as such no right to file a frivolous and vexatious petitions. It is implied that a person shall not file frivolous and vexatious petitions and what is implicit has been made explicit by the Trial Court in their Order.
  - iii. Even the Sessions Court seems to have completely misunderstood the spirit of the observations made by the Trial Court and has remarked that *“from the very nature of the impugned order and also the observations made therein by the learned JMFC (LR&LTV), Balasore directing the prosecution and the O.P. No 4 informant not to file such type of frivolous and*



*vexatious petition, cannot be termed as interlocutory order... ..  
... .."*

- iv. The Sessions Judge has also not assigned any reason as to how the Learned Trial Court is wrong in asking a person not to file frivolous and vexatious petitions. The Sessions Court has also not discussed how by asking a person not to file a frivolous and vexatious petition, the otherwise interlocutory order becomes a non-interlocutory order.
- v. In *Madhu Limaye Vs State of Maharashtra* the Supreme Court has in crystal clear terms held that "*An Order that does not deal with the final rights of the Parties but either (1) is made before judgment and gives no final decision on matter in dispute but is merely on a matter of procedure or (2) is made after judgment and merely directs how the declaration of rights already given in the judgment are to be worked out is termed interlocutory*". It is submitted that the Learned Sessions Judge has either failed to comprehend the reasoning of the Supreme Court of India or has failed to apply the same. They have further submitted that in the *S. Kuppuswamy Rao Vs the King*, the Supreme Court relied upon some English decisions wherein it is emphatically stated that if the decision finally disposes of the matter in dispute, it would be final and if the decision does not dispose of the matter in dispute, then it would be an Interlocutory Order.



vi. If an order specifically states not to file a frivolous and vexatious petitions then it does not become bad on account of asking the litigant not to file frivolous and vexatious petitions. It is further clear from the Order passed by the Learned Magistrate that the right of the Opposite Party No. 2 to file petitions is not curtailed but only directed to not file frivolous and vexatious petitions.

9. The Counsel prays that the Criminal Revision Application No.13 of 2025 pending before the Learned Sessions Court at Balasore to be quashed and set aside the Order dated 11.07.2025 being illegal and invalid.

### **III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY NO.2:**

10. The Learned Counsel for the Opposite Party No. 2 has made the following submissions in support of their contentions:

- i. The Learned Sessions Judge, Balasore vide Impugned Order dates 11.07.2025, has rightly held the Criminal Revision Petition No. 13/2025 to be maintainable, rejecting the preliminary objections raised by the present Petitioner that the order of the Learned JMFC dated 31.01.2025 was an “interlocutory oder” and thus barred from revision under Section 397(2) of the Code of Criminal Procedure, 1973.
- ii. On the occasion of the Petitioner abusing the Informant in filthy language and threatened to kill her violating the bail conditions, an application under Section 437(5) of the Cr.P.C. for the cancellation of the bail was filed before the Learned



JMFC, Balasore. The Learned JMFC vide a detailed order dated 31.01.2025 dismissed the said application on merits, further warning the prosecution and the informant against filing such "frivolous and vexatious petitions" thereby curtailing their statutory right to seek legal recourse.

- iii. The Learned Sessions Judge correctly appreciated the law on interlocutory orders. An order which affects the substantive rights of the parties or decides a matter of moment cannot be termed as purely interlocutory. The Ld. Sessions Judge rightly observed:

*"From the very nature of the impugned order and also the observations made therein by the learned JMFC (LR&LTV), Balasore, directing the prosecution and the O.P. No.4 – Informant not to file such type of frivolous and vexatious petitions, cannot be termed as an interlocutory order; as such in my considered view the said order is not hit under Section 397(2) Cr.P.C. Hence, the revision is, thus, held to be maintainable and it is admitted."*

- iv. The order of the Learned JMFC dated 31.01.2025 did not merely dismiss the bail cancellation application. It went further and curtailed the valuable statutory right of the prosecution and the Informant to approach the court in the future for similar relief. Such a direction, which has a chilling effect on the rights of a party to access justice, substantially affects their rights and cannot be a mere procedural or interlocutory order.



- v. The Hon'ble Supreme Court in *Amar Nath v. State of Haryana*<sup>1</sup> has held that the term "interlocutory order" in Section 397(2) Cr.P.C. has been used in a restricted sense and not in any broad or artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights or liabilities of the parties. Any order which substantially affects the right of the accused, or decides certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision. In the case of *Madhu Limaye v. State of Maharashtra*<sup>2</sup> the Hon'ble Supreme court clarified that an order which is not a final order may still not be an interlocutory order. An order which decides a matter of moment and affects the rights of the parties is an "intermediate order" and is revisable. The order of the Learned JMFC, by imposing a future bar on filing applications, is precisely such an order affecting the substantive rights of the Informant.
- vi. The Learned JMFC's order effectively foreclosed the Informant's right to seek cancellation of bail even if the Petitioner were to commit further violations of bail conditions in the future. This amounts to a final determination of the Informant's right to agitate this issue, and therefore, the order is not interlocutory.

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<sup>1</sup> (1977) 4 SCC 137

<sup>2</sup> (1977) 4 SCC 551



- vii. It is pertinent to mention that the Hon'ble Supreme court in **Girish Kumar Suneja Vs. C.B.I.**<sup>3</sup> categorized types of order in criminal jurisprudence namely- Final, interlocutory and intermediary. A revision under Section 397(2) Cr.P.C is maintainable against an Intermediary order. In the case at hand, the application for cancellation of Bail is an Intermediary order since it puts an end to the Right of Bail granted to an accused by the criminal court.
- viii. The Petitioner is attempting to stall the proceedings before the Learned Sessions Court by filing the present petition. The inherent powers of the High Court under Section 482 Cr.P.C. are to be exercised sparingly and only to prevent the abuse of the process of any court or otherwise to secure the ends of justice. The Impugned Oder of the Learned Sessions Judge does not cause any injustice; rather, it ensures that the revision is heard on its merits. The conduct of the Petitioner, from threatening the Informant at her workplace to filing multiple RTI applications to harass her, and now filing this petition, demonstrates a clear pattern of using legal processes to vex and intimidate the informant.

#### **IV. COURT'S REASONING AND ANALYSIS:**

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

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<sup>3</sup> 2011 INSC 615



12. The core issue that arises here for consideration in this petition under Section 482 CrPC is whether the order dated 31.01.2025 passed by the learned JMFC, Balasore dismissing the application under Section 437(5) Cr.P.C. for cancellation of bail, while directing the prosecution and the informant not to file frivolous and vexatious petitions of similar nature in future, can be termed as an “interlocutory order” within the meaning of Section 397(2) Cr.P.C.
13. It is well settled that the expression “interlocutory order” appearing in Section 397(2) Cr.P.C. has to be given a restricted meaning. The Hon’ble Supreme Court in the case of *Amar Nath v. State of Haryana*<sup>4</sup> has observed that an order which does not finally dispose of the rights of the parties and is merely procedural in nature would be interlocutory. However, an order which affects the substantive rights of the parties or decides a matter of moment, even if passed in an ongoing proceeding, would not be purely interlocutory and would be revisable.
14. In the instant case, the learned JMFC, Balasore, after a detailed consideration of the materials, dismissed the application for cancellation of bail on merits by order dated 31.01.2025. While doing so, the Court made an observation warning both parties “not to file this type of frivolous and vexatious petitions of similar nature in future without verifying proper proof.” A plain reading of the said observation makes it clear that the learned Magistrate did not impose a blanket or general prohibition on the right of the

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<sup>4</sup> (1997) 4 SCC 137



informant or prosecution to approach the Court for legitimate relief.

15. The learned Sessions Judge, while rejecting the preliminary objection regarding maintainability, appears to have read the said observation in an expansive manner by holding that it has a “chilling effect” on the right of the informant to seek cancellation of bail in future and therefore the order ceases to be interlocutory. With due respect, this Court is unable to agree with the said reasoning. A direction to refrain from filing frivolous and vexatious litigation does not decide any substantive right of the parties in the main proceeding nor does it amount to a final determination on the question of cancellation of bail. It remains in the realm of procedural directions aimed at preventing misuse of court processes
16. In the aforesaid circumstances, this Court is of the considered opinion that the order dated 31.01.2025 passed by the learned JMFC, Balasore is essentially an interlocutory order and the Criminal Revision No.13 of 2025 preferred against the same before the learned Sessions Judge, Balasore was not maintainable in view of the bar contained in Section 397(2) Cr.P.C. The learned Sessions Judge erred in holding the revision maintainable by giving an overly broad interpretation to the cautionary observation made by the Magistrate against filing of frivolous and vexatious petitions.



V. CONCLUSION:

17. In view of the foregoing analysis, and after an anxious and careful consideration of the material facts and circumstances of the case, this Court is of the considered opinion that the allegations, if taken at their face-value, does not disclose a prima facie case against the Petitioner. The pleas raised by the Petitioner pertain to matters of defence which cannot be examined in proceedings under Section 482 CrPC/ 528 of BNSS.
18. Accordingly, this Court does not find any ground to interfere with the criminal proceedings in exercise of its inherent jurisdiction under Section 482 of Cr.P.C/ Section 528 of BNSS.
19. Accordingly, the CRLMC stands **dismissed**.
20. Interim order, if any, passed earlier stands vacated.

*(Dr. Sanjeeb K Panigrahi)*  
*Judge*

*Orissa High Court, Cuttack,*  
*Dated 15<sup>th</sup> May, 2026/*