IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1088 of 2024
CNR-ODHC010232212024

Bidyabharati Panda …. ***Petitioner***

Represented by Adv.-
Mr. Bishnu Prasad Pradhan,
Advocate

-versus-

State of Odisha …. ***Opp. Party***

Represented by Adv.-
Mr. Jateswar Nayak, AGA
Mr. Rakesh Behera, Advocate
for the informant

CORAM:
HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

Order No.

ORDER
03.09.2026
(Hybrid mode)

20. **1.** Aggrieved by the order dated 11.03.2024 passed by the learned S.D.J.M., Paralakhemundi in G.R. Case No.334 of 2021 disallowing the application of the petitioner under Section 205 of Cr. P.C., the present petition has been filed.

2. The Coordinate Bench of this Court vide order dated 09.07.2024, while issuing notice to the opposite parties, directed the petitioner to move an application before the trial Court seeking adjournment. The

benefit of arrangement has been taken by the petitioner till date. Therefore, the learned trial Court could not proceed with the trial despite the other co-accused persons have already appeared.

3. From the record, it reveals that earlier, the present petitioner had approached this Court by filing CRLMC No.1725 of 2022 assailing the order dated 24.05.2022 passed by the learned S.D.J.M., Paralakhemundi rejecting her application under Section 205 Cr. P.C. The Coordinate Bench of this Court, vide order dated 19.04.2023, allowed the petition on the ground that the learned S.D.J.M., Paralakhemundi, while rejecting the application of the petitioner under Section 205 Cr. P.C., has not assigned the reason as required under law. This Court has relied upon the judgment of the Hon'ble Supreme Court in the case of **Rameswar Yadav & others vs. State of Bihar and another**, reported in **2018 4 SCC 608**. While allowing the petition, the Coordinate Bench directed the learned S.D.J.M. to pass a reasoned order dealing with the application of the petitioner under Section 205 Cr. P.C. Pursuant to the said order of the Coordinate Bench, the learned trial Court by a detailed impugned order dated 11.03.2024 passed in G.R. Case No.334 of 2021, rejecting the application of the petitioner under Section 205 Cr.

P.C., directed her to appear before the trial Court. Although sufficient reasons have been assigned by the learned trial Court in the impugned order by rejecting the application of the petitioner, still the petitioner is aggrieved and has approached this Court in the present petition.

4. It is noteworthy to mention here that the petitioner has also approached this Court by filing CRLMC No.2565 of 2023 challenging the order of cognizance dated 12.04.2023 taken by the learned S.D.J.M., Paralakhemundi in 1.C.C. Case No.22/2022 for the offences punishable under Sections302/120-B of IPC. This Court, vide its detailed judgment dated 03.07.2025, rejected the prayer of the petitioner and affirmed the order of cognizance. In the said judgment, the factual matrix of the present case has been succinctly narrated.

5. Mr. Bishnu Prasad Pradhan, learned counsel appearing for the petitioner submitted that the present petitioner is recently employed as a Government employee on contractual basis at Nuagaon in the district of Mayurbhanj, which is more than 524 Kms. from Paralakhemundi. She is a young widow and travelling far away distance alone to participate in the proceeding on a frequent basis is practically impossible for her logistically and otherwise

owing to her job. Therefore, pursuance to the summons issued by the Court of the learned S.D.J.M., Paralakhemundi, she had appeared before the Court on 22.05.2022 through her Advocate and moved an application under Section 205 Cr. P.C. The learned trial Court has rejected the application in a routine and mechanical manner without appreciating the mitigating facts of the present case. It is also contended by Mr. Pradhan, learned counsel for the petitioner that the learned trial Court has not truly complied with the order dated 19.04.2023 passed by the Coordinate Bench of this Court in CRLMC No.1725 of 2022 wherein, it was directed that the application of the petitioner should be considered taking into account all the grounds raised by her. It is further contended by Mr. Pradhan that the tenure of the impugned order reasonably led to the inference that the learned S.D.J.M., Paralakhemundi was pre-determined to reject the application. This aspect could be clearly elucidated from the fact that the learned trial Court, without even clubbing the G.R. Case No.334 of 2021 and 1.C.C. Case No.22/2022, has recorded that both the cases will be tried together.

It is also very emphatically submitted that the petitioner is working as a Livestock Inspector at LAC, Nuagaon, Betnoti in the district of Mayurbhanj. Taking

frequent leave to attend the proceeding at Paralakhemundi, which is 524 Kms. away would be difficult for her. This aspect of the matter has not been appreciated by the learned S.D.J.M. He further submitted that the petitioner would appear before the trial Court through her counsel without fail and would not hamper the progress of the trial.

6. *Per contra*, Mr. Rakesh Behera, learned counsel appearing for the informant, submitted that the petitioner is deliberately avoiding the process of the Court. Due to her non-appearance in the Court, the trial in the present case has not yet commenced. Two other co-accused persons had already surrendered to the jurisdiction of the trial Court. Still the trial is not kicked of due to the deliberate absence of the petitioner from the proceeding. He further submitted that the petitioner is deliberately not appearing before the trial Court because in the protest petition filed by his client, the cognizance of the offence punishable under Section 302 of IPC has been taken. Therefore, the petitioner has reasonable apprehension that she would be taken into custody once she appears before the trial Court, that is the reason of the avoidance to the process of the Court which has become obvious on the part of the petitioner.

7. It appears from the record that the earlier F.I.R.

in connection with Paralakhemundi P.S. Case No.141 of 2021 has been registered for the alleged commission of the offences punishable under Sections 302/120-B of IPC against the present petitioner and the cook of the deceased. After investigation, the police filed the charge sheet only against the present petitioner for the alleged commission of the offence punishable under Section 304-A of IPC. In the said G.R. Case No.334 of 2021, the summons has been issued against the present petitioner. It further appears from the record that the informant of the present case aggrieved by non-filing of the charge sheet for the offence punishable under Section 302 of IPC and on the exoneration of the other accused persons, has filed the protest petition before the Court of the learned Magistrate. In the protest petition, the enquiry was conducted under Section 202 Cr. P.C. and thereafter, the learned Magistrate has taken the cognizance of the offences punishable under Sections 302/120-B of IPC not only against the present petitioner but also against the other accused persons. In the said 1.C.C. Case No.22/2022, where the cognizance of the offences punishable under Sections 302/120-B of IPC has been taken by the Court below, the summons has been issued against the petitioner to appear before the trial Court.

The petitioner filed CRLMC No.2565 of 2023 challenging the order of cognizance dated 12.04.2023 passed by the learned S.D.J.M., Paralakhemundi in 1.C.C. Case No.22 of 2022, which was rejected by this Court vide judgment dated 03.07.2025 passed in CRLMC No.2565 of 2023. Therefore, the petitioner is apprehensive that once she appears before the trial Court in G.R. Case No.334 of 2021, where the cognizance of the offence punishable under Section 304-A of IPC has been taken, which was definitely going to be tagged with 1.C.C. Case No.22 of 2022, she may be taken into custody.

8. Taking into consideration the aforementioned, the learned trial Court, in the impugned order dated 11.03.2024 passed in G.R. Case No.334 of 2021 has observed as under:

"On the other hand, the informant in G.R. case no.334/2021 being aggrieved, filed a complaint case before this court which was registered as 1CC no. 22/2022. After conducting enquiry and available evidence on record, this court had taken cognizance of offence U/S.302/120-B of IPC dt.12.04.2023 against this accused/petitioner and other co-accused persons. After taking cognizance, summons were issued against the present accused namely Bidyabharati Panda and two others for their first appearance but the case is

lingering to date for their appearance.

Thus, taking into account the fact and circumstances of the case, it is seen that both the cases i.e. G.R.334/2021 and 1CC-22/2022 arises out of the same occurrence. Further, with the appearance of the accused in 1CC-22/2022, the present G.R. case will be merged in complaint case and record will be committed to the Court of Sessions. In this process it cannot be said that the present accused petitioner is alleged to have committed the offences only U/S. 285/304-A of the IPC rather she is alleged to have committed the offence U/s. 302/120-B/285/304-A of the IPC. Allegation of murder of the deceased levelled against the accused petitioner is grievous in nature and this court lacks jurisdiction to try this case. Also, the present accused petitioner has got the contractual job much after the commission of offence. She is not a Paradanasini lady and staying at a distant of place is not a sufficient ground to consider her application. Moreso she being a married lady allegations regarding her involvement in the death of her husband comes under the category of moral turpitude. Furthermore, once she will get the privilege granted under section-205(1) Cr.P.C. in this case, she will take undue advantage in 1CC case no. 22/2022 by disputing her identity in the Court of Session during trial."

9. This Court finds no reason to disagree with the aforementioned observation made by the learned trial Court in the impugned order. From the conspectus of the facts and circumstances of the case, it is now clear that the petitioner and the other accused persons have to face the trial in a case, where the cognizance of the offences punishable under Sections 302/120-B of IPC has been taken.

10. In view of the nature of the offences involved and the sequence of events unfolded in the present case, the appearance of the present petitioner in the trial Court is not dispensable. No doubt, regard being had to her place of resident and personal difficulties, she may be entitled to move an application under Section 205 Cr. P.C. during the trial as and when the necessity arises. But avoiding for appearance from the trial Court even for once cannot be appreciated in the fact scenario of the present case. Even under the operation of the procedural law, once a process has been issued by a court of law, particularly in a case of the present nature, it is obligatory on the part of the alleged accused to surrender to the jurisdiction of the Court and participate in the proceeding.

11. Therefore, this Court finds no reason to interfere in the matter. Hence, the CRLMC stands dismissed. The petitioner is accordingly directed to appear before

the Court of the learned S.D.J.M., Paralakhemundi in G.R. Case No.334 of 2021 and 1.C.C. Case No.22 of 2022 on or before 01.10.2026.

12. It is open for the petitioner to move application either under Section 205 Cr. P.C. or under Section 317 Cr. P.C. as and when required.

13. To allay the apprehension of the petitioner that she may be taken into custody once she appears before the trial Court, this Court expects that the petitioner shall move the application for grant of bail. It is also expected that the learned trial Court shall consider all the facts and circumstances of the present case as has been urged before this court while dealing with such application. In the event, the learned Court below disagrees with the contention to be raised by the petitioner in the application for grant of bail and rejects the same, then the petitioner can move to the Sessions Court on the same day and the learned Sessions Court shall decide the application preferably on the same day without delaying the same.

14. With the aforementioned observation, the CRLMC stands dismissed.

(Sibo Sankar Mishra)
Judge

Signature Not Verified
Digitally Signed
Signed by: SUBHASIS MOHANTY
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 08-Sep-2026 18:11:26