

**The State of Odisha**  
v.  
**Nirjharini Patnaik @ Mohanty & Anr.**

(Criminal Appeal No. 2270 of 2024)

26 April 2024

**[Vikram Nath\* and Prashant Kumar Mishra, JJ.]**

**Issue for Consideration**

Chargesheet was filed against the Respondents in an FIR filed alleging a widespread conspiracy involving forgery of documents to facilitate the illegal transfer of valuable government land to private entities. SDJM, Bhubaneshwar passed an order of cognizance of offence u/s 420,467,468,471,477(A),120B and 34 IPC and issue of process against the Respondents. Whether the High Court was justified in quashing the order taking cognizance against the Respondents.

**Headnotes**

**Quashing- Decision of High Court to quash the proceedings at preliminary stage, when the case is linked to a larger conspiracy involving government lands:**

**Held:** The investigation into Respondent No. 1 (accused no. 7) and Respondent No. 2 (accused no. 10) reveals their critical roles in the misuse of GPA and subsequent property transactions, presenting a strong *prima facie* case for further examination – Lands in the heart of Bhubaneswar city were acquired for as little as Rs. 9,000/- per acre, whereas the prevailing market rates exceeded Rs. 50 lakhs per acre – Such drastic undervaluation raises substantial questions regarding the intent behind these transactions, indicative of a deliberate scheme to evade appropriate stamp duties and registration fees, causing considerable loss to the state – Respondent No. 1, who is the wife of Respondent No. 2, the Managing Director of M/s Z Engineer's Construction Pvt. Ltd., was central to the planning and execution of these transactions – Both respondents, along with their connections in the Real Estates Developers Association and their familiarity with key figures in the real estate sector, played pivotal roles in

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this conspiracy – Dismissing the case at the preliminary stage, especially when linked to a broader pattern of similar frauds involving government lands as part of a larger conspiracy, risks undermining the integrity of multiple ongoing investigations and judicial processes – Such a decision would be detrimental to the investigation of similar fraudulent schemes against public assets – The High Court’s decision to quash the proceedings was based on an incomplete assessment of the facts, which could only be fully unraveled through a detailed trial process – The nature and extent of the alleged conspiracy, the involvement of the respondents, and the actual harm caused to the public exchequer need to be judiciously examined in a trial setting – The High Court has hastily concluded that there is no evidence to show meeting of minds between the other accused persons and the Respondents which in our considered opinion, can only be decided after a thorough examination of evidence and witnesses by the Trial Court. [Paras 5,6,7,8 and 9]

**List of Acts**

Code of Criminal Procedure, 1973; Penal Code, 1860.

**List of Keywords**

Quashing; Conspiracy; Forgery; Illegal transfer; Government land, Public asset; Loss to public exchequer; Dismissing the case at the preliminary stage; Larger conspiracy; Fraudulent schemes; Incomplete assessment of facts.

**Case Arising From**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2270 of 2024

From the Judgment and Order dated 17.01.2018 of the High Court of Orissa at Cuttack in CRLMC No. 454 of 2017

**Appearances for Parties**

Ravi Prakash Mehrotra, Sr. Adv., Ms. Sharmila Upadhyay, Sarvjit Pratap Singh, Apoorva Srivastava, Advs. for the Appellant.

Siddhartha Luthra, Sr. Adv., Shubhranshu Padhi, Niroop Sukrithy, Jay Nirupam, D. Girish Kumar, Pranav Giri, Anmol Kheta, Pradyuman Kasistha, Advs. for the Respondents.

**Digital Supreme Court Reports****Judgment / Order of the Supreme Court****Judgment****Vikram Nath, J.**

Leave granted.

2. This appeal, by the State of Orissa, arises out of the impugned judgment dated 17.01.2018 passed by the High Court of Orissa, which quashed the order dated 26.09.2015 passed by the SDJM, Cuttack in G.R. Case No.1771 of 2005 for taking cognizance of offences under sections 420, 467, 468, 471, 477(A), 120(B) and 34 Indian Penal Code, 1860<sup>1</sup> and directing issuance of process against the Respondents.
3. The facts leading up to the present case are as follows:
  - 3.1 On 20.05.2005, an FIR registered as Capital P.S. Case No. 178 of 2005 was lodged by the then Special Secretary to the Government in the General Administration (G.A.) Department, alleging a widespread conspiracy involving the forgery of documents to facilitate the illegal transfer of valuable government land to private entities. Following the FIR, the Police initiated investigations that culminated in a chargesheet filed against ten individuals, including the present respondents, accusing them of engaging in a criminal conspiracy under sections 420, 467, 468, 471, 477A, 120B and 34 IPC.
  - 3.2 The chargesheet dated 28.08.2015 detailed that the respondents, along with other co-conspirators, allegedly utilized forged documents such as Hata Patas, Ekpadia, and rent receipts to manipulate judicial processes and revenue records to illegally acquire government lands. These documents were purportedly produced in various revenue and civil courts to secure favorable orders, which were then used to substantiate false claims of ownership over the disputed properties.
  - 3.3 Central to the allegations is a transaction involving the sale of land situated in the heart of Bhubaneshwar, initially leased to one Kamala Devi under dubious circumstances before the

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<sup>1</sup> In short, 'IPC'

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independence of India. After her demise, her legal heir, Kishore Chandra Patnaik, continued to assert rights over the property based on this lease, which had been previously declared non-genuine by the competent authorities. Despite adverse findings, the OEA Collector and subsequent judicial rulings set aside earlier decisions and reinstated the lease, albeit amidst allegations of document manipulation and improper legal proceedings.

- 3.4 In the year 2000, Kishore Chandra Patnaik, through a General Power of Attorney<sup>2</sup>, granted Anup Kumar Dhirsamant (accused no. 5), a real estate developer, the authority to manage and dispose of the property. It is alleged that this GPA was later found to be interpolated towards transactions favourable to the Respondents and the other accused persons. Following the interpolation, Dhirsamant executed sales of substantial portions of the land to the respondents at rates grossly undervalued, as per the market rates at the time and transactions that were finalized without proper scrutiny of the title's legitimacy or the GPA's authenticity.
  - 3.5 On 26.09.2015, the SDJM, Bhubaneshwar passed an order of cognizance for offence u/s 420, 467, 468, 471, 477(A), 120(B) and 34 IPC and issue of process against the Respondents and the other accused persons which was challenged by the Respondents before the High Court.
  - 3.6 The High Court in its impugned judgment, quashed the order taking cognizance against the respondents. It reasoned that there was insufficient evidence of a conspiracy directly implicating the respondents and criticized the preliminary stage of judicial scrutiny as overly thorough, contrary to the standards required for *prima facie* evaluation at the stage of taking cognizance.
4. The appellant-State contends that the High Court overlooked circumstantial evidence suggestive of a broader conspiracy involving the respondents, particularly highlighting their professional acumen in real estate, which should have informed them of the dubious

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<sup>2</sup> In short, "GPA"

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nature of the transactions. Furthermore, the State argued that the High Court failed to appreciate the severity of the offences involved and the potential implications for governance and public trust in the administration of land records.

5. Having heard the arguments on both sides, this Court is of the belief that the impugned order of the High Court merits reconsideration. The investigation into Respondent No. 1 (accused no. 7) and Respondent No. 2 (accused no. 10) reveals their critical roles in the misuse of GPA and subsequent property transactions, presenting a strong *prima facie* case for further examination. Initially, Kishore Chandra Patnaik granted a GPA to M/s Millan Developer and Builders Pvt. Ltd., represented by Anup Kumar Dhirsamanta. This GPA was registered outside the proper jurisdiction by including a small, unrelated parcel of land to falsely extend the Sub-Registrar of Khandagiri's authority. This setup was key to the subsequent illegal activities.
6. The manipulation of the GPA where specific terms were altered to misrepresent the authority granted, was carried out with the help of one Ajya Kumar Samal, a junior clerk (accused no.3). This act of forgery was a deliberate attempt to circumvent the legal procedure for transferring property. Following this forgery, extensive lands were sold at significantly lowered values. Specifically, lands in the heart of Bhubaneswar city were acquired for as little as Rs. 9,000/- per acre, whereas the prevailing market rates exceeded Rs. 50 lakhs per acre. Such drastic undervaluation raises substantial questions regarding the intent behind these transactions, indicative of a deliberate scheme to evade appropriate stamp duties and registration fees, causing considerable loss to the state. Crucially, part of this land was bought under suspicious conditions by Respondent No. 1 and Puspa Choudhury (accused no.8), in transactions managed by Prahallad Nanda (accused no. 2), who was temporarily in charge of the Sub-Registrar's office. The intentional undervaluation of this land and the strategic involvement of Respondent No. 1, in conjunction with the revocation of the GPA due to its fraudulent tampering, highlight a clear scheme to misappropriate government property and incur losses upon the public exchequer.
7. Furthermore, Respondent No. 1, who is the wife of Respondent No. 2, the Managing Director of M/s Z Engineer's Construction Pvt. Ltd., was central to the planning and execution of these transactions.

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Both respondents, along with their connections in the Real Estates Developers Association and their familiarity with key figures in the real estate sector, played pivotal roles in this conspiracy. Their professional positions and industry influence were misused to facilitate and conceal these transactions.

8. This Court believes that dismissing the case at the preliminary stage, especially when linked to a broader pattern of similar frauds involving government lands as part of a larger conspiracy, risks undermining the integrity of multiple ongoing investigations and judicial processes. Such a decision would be detrimental to the investigation of similar fraudulent schemes against public assets.
9. Therefore, this Court finds that the High Court's decision to quash the proceedings was based on an incomplete assessment of the facts, which could only be fully unraveled through a detailed trial process. The nature and extent of the alleged conspiracy, the involvement of the respondents, and the actual harm caused to the public exchequer need to be judiciously examined in a trial setting. The High Court has hastily concluded that there is no evidence to show meeting of minds between the other accused persons and the Respondents which in our considered opinion, can only be decided after a thorough examination of evidence and witnesses by the Trial Court.
10. In view of the above, the appeal is allowed. The impugned order of the High Court is set aside. The trial to proceed in accordance with law against the respondents also. As the FIR is of the year 2005, the Trial Court is directed to decide the trial expeditiously.

*Headnotes prepared by:*  
Adeeba Mujahid, Hon. Associate Editor  
(Verified by: Liz Mathew, Sr. Adv.)

*Result of the case:*  
Appeal allowed.