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It is a matter of concern how as licensee traders the Britishers stepped into soil of India, played their policy of divide and rule and finally ruled it for about two centuries. The weak Moghul emperors and Maratha rulers, and self-centered Kings of small dominions failed to check the British colonialism. The British empire was enriched by its dominion over Indian subcontinent while benefiting India in some fields.

The British had acclaimed reputation for its high recognition to human value and for its self-formulated law in its own land. But that degree of impartiality in application to the subject of its colonial dominions at times had raised doubts.

The present state of Orissa, formed on 1st April, 1936 was one of the eleven provinces of British India. It was a small fraction of the past Kingdoms of Kalinga, Utkal and Kosala which covered a vast area in the historical geography of ancient and medieval India. On the fall of last Independent King of Orissa, Mukunda Dev, this territory came under
Afghan rulers of Bengal in 1568 but went to the hands of Moghuls in 1592 when Mansingh annexed Orissa to Akbar's empire. Orissa remained under the Marathas from 1751 to 1803.

In 1765 Lord Clive secured diwani of Bengal, Bihar and Orissa. The then Orissa was beyond the river Subarnarekha towards the north including the district of Midinapore. The southern territories of Orissa including Ganjam came under the occupation of British in November 1766. So by 1766 the East India Company was at both the ends of Orissa, the northern territories under Bengal Presidency and southern territories under Madras Presidency. But occupation of Orissa was an imperative necessity for the British to connect their territorial possession in the North and South. From Clive to Cornwallis, the East India Company tried to get occupation of Orissa, but not through military action, because then the Marathas in possession of Orissa were at the meridian of their power and the Britishers were yet to establish themselves firmly in their newly founded dominions. During his tenure
from 1798 to 1805, it was Lord Welleselly who conquered Orissa during the second Anglo-Maratha war on 14th October, 1803.

In perpetual sovereignty, the province of Cuttack including the port and district of Balasore was ceded to the East India Company by Raghuji Bhonsala, on 17th December, 1803 under the treaty of Deogan. Subsequently, the 'Garjat' States or Tributary Mahals also came under their control. Thus, the three districts of Balasore, Cuttack and Puri in the sea coast and 17 'Garjats' in the hill tracts constituted the British administered Orissa. Banki became a permanent Government State in 1840 followed by Angul in 1848. When the British laws and regulations were enforced in the Tributary Mahals headed by feudal rulers, the three coastal districts styled as "Zilla of Cuttack" remained under direct administration of the company being a part of Bengal Presidency. Government of Bengal framed policies, supervised the administrative affairs and exercised control over Zilla of Cuttack. The Sambalpur group of Tributary states remained under Central province till those transferred to Orissa in 1905. With the annulment of the partition of Bengal, in 1912,
the British authorities established the province of Bihar and Orissa with the headquarters at Patna. This administrative set up continued for long 25 years irrespective of differences of the subjects of the areas in many social, linguistic and cultural characteristics when in 1936, after continued agitation for amalgamation of Oriya speaking tracts, a separate province of Orissa was created.

Throughout the period of British rule, Orissa constituted two different political entities; British Orissa and the Feudatory States. When British Orissa remained under the direct rule of the British authorities, (same recorded as British territory) the inhabitants were treated as British subjects. On the other hand the Feudatory States were ruled by local dynasties under the protection and political control of the British. Thus after its occupation by the British in 1803, coastal Orissa remained under the administrative control of East India Company till 1857 and then under the British Crown till 1936.

After occupation of Orissa the British, at the beginning, made it their policy to respect the local custom, usages, and mode of
living in administration of justice. Gradually it injected rigour into the administrative frame-work with a motive to create fear-complex. It laid its cold hands on all branches of administration including even the judiciary, almost forgetting the comforts and benefits of the subject population of Orissa. The British knew that their predecessor, the Marathas, had given very little attention to the civil justice. Hence, after a brief period of their rules, they extended some of the laws and regulations of Bengal to Orissa, under the Regulation 4 of 1804. Thereafter many regulations were passed and extended from time to time to Orissa.

The Supreme Court of Judicature of Calcutta was established under the Regulating Act of 1773 and had its jurisdiction over the Presidency town of Calcutta only. Its exclusive criminal jurisdiction was for the European (British) subjects residing in the country. Subsequently, the British formulated their own judicial system, opened Sadar Dewani Adalat, and Sadar Nizamat Adalat. And these apex courts of civil and criminal had their respective appellate jurisdiction over the province of Bengal, Bihar and Orissa. But in the mofussil area civil and criminal
courts were established to look into the criminal and revenue matters. At the same time, running of two systems of judiciary, the Supreme Court and the Company Courts which functioned concurrently and independently, caused inconvenience to the Government as well as the public. However, for the union of two judicial courts, the British Parliament in 1861 passed the Indian High Courts Act and thus the Calcutta High Court was established on 14th May, 1862. The Supreme Court of Judicature at Calcutta was abolished. The newly established High Court contained the original and appellate jurisdiction in civil and criminal matters including other ancillary matters. Judicial administration in Orissa remained under the control and supervision of Calcutta High Court until 1916 when Patna High Court was established with its jurisdiction over Bihar and Orissa. This system continued till 1948 when the Orissa High Court was established.

At the beginning the administration of justice suffered from racial discrimination. The British subjects were originally exempted from jurisdiction of the Courts. Those persons residing in the mofussil were
only subject to the courts directly responsible to the Crown. Situation changed in 1793, and in 1814. In 1843 restrictions were lifted and the English men were made amenable to the Munsif Court also. Nevertheless, the racial discrimination working on two parallel systems created public discontentments. The British subjects, too started counter movements. Difficulties arose in the administration of justice. Changes were subsequently made, but with a view to protecting the British subjects and with a motive to suppress the natives.

Orissa was not an exception to the British administration of justice. This aspect of study especially the case laws pertaining to Orissa have not been explored yet. Therefore, in order to know and bring to light the hither to unexplored chapter of Orissa’s judicial history this proposed topic has been chosen. Moreover, a comparative study would be made taking into the facts relating to application of same laws in all the three Presidencies at different times, and with special reference to Orissa Division of the Bengal Presidency.
In the 19th century civil servants and scholars like Andrew Stirling, John Beams, Sir William Wilson Hunter and George Toynbee were first to sketch briefly history of Orissa under the British rule. Historians like H.K.Mahatab, R.D.Benarjee, P.Mukherjee, L.S.S O’ Malley and others in 20th century elaborated the brief sketch in their works. Also the job was pushed ahead in the published works like ‘Administration of Justice under East India Company in Bengal, Bihar and Orissa’ by A.C.Patro, Orissa under the East India Company by K.M.Patro, functions of British Orissa by B.C.Roy, Orissa under the crown by J.K.Samal and many more. Still in the fields of Administration of Civil and Criminal Justice there has been no study of application of law and Regulation on the backdrop of case laws blended with executive interest of the Company and the Crown.