

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29 of 2022

Praksh Kumar Jena

Petitioner
....
Mr. Manoj Kumar Panda, Advocate

-versus-

State of Odisha and others

Opposite Parties
....
Mr. YSR Babu, AGA for State

**CORAM:
JUSTICE A.K.MOHAPATRA**

ORDER
15.03.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for both the parties. Perused the records.
3. The present writ petition has been filed with a prayer to stay the disciplinary proceeding bearing Bhubaneswar UPD Proceeding No.26 of 2020 initiated against the Petitioner upon registration of the Criminal Case against the Petitioner till disposal of Criminal Trial in G.R. Case No.1100 of 2016, arising out of Choudwar P.S. Case No.168 of 2016, pending in the court of learned J.M.F.C.(R), Cuttack.
4. It is submitted by learned counsel for the Petitioner that the Departmental Proceeding vide Bhubaneswar UPD Proceeding No.26 of 2020 has been initiated against the Petitioner solely on the basis of the registration of FIR against the Petitioner at the instance of his wife in Choudwar P.S. Case No.168 of 2016 for the alleged

commission of offences under Sections 498-A/294/323/506/406 and 34 of I.P.C. r/w. Sections 4 and 6-A of D.P. Act.

5. On perusal of the F.I.R., which has been attached to the writ petition, it is revealed that the dispute involved in the present case is in the nature of matrimonial dispute between the husband and wife. Therefore, the same can only be adjudicated by a competent criminal court having jurisdiction over the subject matter. The Departmental Proceeding, which is based on a criminal case has to be decided after the criminal case is decided. Therefore, it would be in the interest of justice that the Departmental Proceeding in Bhubaneswar UPD Proceeding No.26 of 2020 shall await till final verdict in criminal trial.

6. Learned counsel for the State on the other hand submits that although the Departmental Proceeding is based on the allegation made in the FIR by the wife of the Petitioner, however, the same can proceed as there is no impediment in law and accordingly prays for dismissal of the writ petition.

7. Having heard leaned counsel for the Parties, this Court is of the view that the dispute involved in the FIR is basically in the nature of matrimonial dispute between the husband and wife and therefore the same can be adjudicated on the basis of evidence to be adduced by the parties in criminal case. Unless the guilt of the accused Petitioner is established by the competent criminal court having jurisdiction over the matter, the departmental authorities may not be able to decide the issue on facts. Further, considering the nature of the allegation which is criminal in nature, the Petitioner

would be compelled to disclose his defence before the departmental authority before the trial commenced.

8. Learned counsel for the Petitioner relied upon the judgments of the Hon'ble Supreme Court in the case of *M. Paul Anthony vs. Bharat Gold Mines Ltd.*, reported in *AIR 1999 SC 1416* and in the case of *Tata Oil Mills Co. Ltd. vs. Its Workmen*, reported in *AIR 1965 SC 155*. He further relies upon the orders of this Court in identical matters in W.P.(C) No.29506/2019, disposed of on 13.01.2020 and W.P.(C) No.27757 of 2021, disposed of on 16.09.2021.

9. Having heard and weighed the contentions raised by both the sides and considering the facts and circumstances of the case, this Court disposes of the writ petition with a direction to the Deputy Commissioner of Police, Bhubaneswar, Opposite Party No.3 not to proceed with the Bhubaneswar UPD Proceeding No.26 of 2020, till criminal trial in G.R. Case No.1100 of 2016, arising out of Choudwar P.S. Case No.168 of 2016, pending in the court of learned J.M.F.C.(R), Cuttack is concluded.

10. With the aforesaid observation, the writ petition stands disposed of.

11. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge