

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1848 of 2011

Rabinarayan Sahoo & another. ***Petitioners***

-versus-

State of Orissa ***Opposite Party***

CORAM: JUSTICE S.PUJAHARI

ORDER

04.04.2022

Order No.

- 04.
1. This matter is taken up through Hybrid mode.
 2. The petitioners, in this case filed under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”), have sought for quashment of the order of cognizance and issuance of process against them in G.R. Case No. 77 of 2010 pending in the court of learned J.M.F.C., Cuttack. The aforesaid impugned order was passed by the learned J.M.F.C. on 08.10.2010.
 3. Heard the learned counsel for the parties.
 4. The case of the petitioners is that they have been proceeded under section 7 of the Essential Commodities Act, since the prosecution launched was on a police report and the person who made the seizure and initiated the investigation is incompetent to lodge the complaint for violation of P.D.S. (Control) Order, 2008. Therefore, the impugned order is liable

to be quashed. It is the further case of the petitioners that statute provides that an officer not below the rank of Inspector being incompetent to initiate the prosecution, the court therefore could not have taken cognizance and the seizure made by the SI of police as well as the prosecution launched in the said case.

5. Learned counsel appearing for the opposite party however would dispute such contention to be without any substance.

6. Having heard learned counsel for the parties and considering the materials available on record, though the court has taken cognizance of Section 7 of the Essential Commodities Act, but it having not mentioned for violation of which order, such cognizance was taken and also the specific offence under Section 7 of the Essential Commodities Act, without entering into the dispute whether the person was incompetent to lodge a complaint or not, set aside the impugned order of cognizance.

7. Consequently, the CRLMC is disposed of and the court of cognizance is directed to look into the materials afresh and also re-address the question of cognizance within a period of 15 days of receipt of copy of this order or production of certified copy. If the petitioner is so aggrieved by the said order, he may approach this Court again.

(S. Pujahari)
Judge