

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3643 of 2010

Sanjukta Barla *Petitioner*
versus-
Smt. Ranjulata Patra *Opposite Party*

CORAM: JUSTICE S. PUJAHARI

ORDER
07.03.2022

Order
No.

06. 1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 26th July, 2010 passed by the learned J.M.F.C., Pattamundai in I.C.C. No.271 of 2009, taking cognizance of the offences under Sections 294 and 506 of the I.P.C.
3. In spite of notice has been made sufficient, no one appears on behalf of the Opposite Party.
4. Heard the learned counsel for the Petitioner.
5. It appears that a complaint had made by the Opposite Party-Complainant before the court of J.M.F.C, Pattamundai indicating therein that one Bhika Swain, S/o. late Adikanda Swain of Village-Khadipal forcefully committed theft of woods and household articles

from her house and when she made protest to the same, said Bhika Swain told her that at the instance of Madhusudan Patra, he had done the same. Thereafter, both of them stated to have abused her in filthy language, pelted stone at her, threatened to eliminate her and her family members. On receipt of the F.I.R., the I.I.C., Pattamundai Police Station stated to have asked the Petitioner to investigate the occurrence, pursuant to which, the Petitioner, S.I. of Police gave notice to the accused persons under Section 160 of Cr.P.C. as well as asked the Opposite Party-Complainant to remain present in the police station, but in the police station, the Petitioner being gained over by the accused persons, compelled the Opposite Party-Complainant to compromise the matter and also abused her in filthy language and extended threat to book her in a false case. Hence, the complaint.

6. Learned counsel for the Petitioner submits that basing on such complaint of the Opposite Party-Complainant, recorded initial statement, so also recorded the statement under Section 202 of Cr.P.C. and thereafter decided to proceed against the Petitioner under Section 294 and 506 of I.P.C. The Petitioner assailed the same in this Criminal Misc. Case on the ground that the offence alleged having been committed during due discharge of her official duty, the court could not have taken cognizance without sanction under Section 197 of Cr.P.C.

Therefore, the cognizance taken and the proceeding against the Petitioner is liable to be quashed.

7. In the case of ***Matajog Dobey v. H.C. Bhari, reported in 1956 AIR 44***, the Apex Court have held as follows:-

“ In Shreekantiah Ramayya Munipalli v. The State of Bombay(1), Bose, J. observes as follows: "Now it is obvious that if section 197 of the Code of Criminal Procedure is construed too narrowly, it can never be applied, for of course, it is no part of an official's duty to commit an offence and never can be. But it is not the duty we have to examine so much as the act, because an official act can be performed in the discharge of official duty as well as in dereliction of it. The section has content and its language must be given meaning". The question of previous sanction also arose in Amrik Singh v. The State of PEPSU(6). A fairly lengthy discussion of the authorities is followed up with this summary: "If the acts complained of are so integrally connected with the duties attaching to the office as to be inseparable from them, then sanction under section 197(1) would be necessary; but if there was no necessary connection between them and the performance of those duties, the official status furnishing only the occasion or opportunity for the acts, then no sanction would be required."

8. It appears from the allegations that the Petitioner stated to have committed the aforesaid offence while investigating into the F.I.R. lodged by the Opposite Party-Complainant. The aforesaid, therefore, has a reasonable connection in exercise of her official duty and in excess of discharge of her official duty.

9. Therefore, considering the aforesaid proposition as laid down in the case of *Matajog Dobey (supra)*, cognizance taken against the

Petitioner being bad in the eye of law for absence of the sanction, the Criminal Misc. Case deserves to be allowed.

10 I would, therefore, allow this Criminal Misc. Case and quash the impugned order of cognizance as well as the entire criminal prosecution launched against the Petitioner in I.C.C. No.271 of 2009 on the file of the learned J.M.F.C., Pattamundai. The learned J.M.F.C., Pattamundai or the Court in seisin over the matter shall on receipt of this order/production of the certified copy of this order, close the proceeding in the aforesaid case in compliance of this order.

11. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

DA