

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5623 of 2014

Sasanka Patnayak @ Sasanka* *Petitioner
Sekhar Patnayak

versus-

State of Orissa and another* *Opposite Parties

CORAM: JUSTICE S. PUJAHARI

ORDER

20.06.2022

Order
No.

07.

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 3rd August, 2012 passed by the learned J.M.F.C., Bhograi in C.T. Case No.664 of 2011 taking cognizance of the offences under Sections 341, 294, 323, 506 of the I.P.C. read with Section 3(i)(x) of S.C. & S.T. (PoA) Act
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party No.1. No one appears on behalf of the Opposite Party No.2-Informant.

4. It is submitted by the learned counsel for the Petitioner that since civil dispute pending between the parties, the aforesaid case has been foisted against the Petitioner concocting the facts, so also material is there to show that Opposite Party No.2-Informant does not belong to scheduled caste community, as such, the court should not taken cognizance mechanically of the offences alleged against him. Therefore, he submits to quash the impugned order of cognizance.

5. Controverting the aforesaid submission of the learned counsel for the Petitioner, learned counsel for the State submits that the Petitioner belongs to the scheduled caste category and taking name of his caste, so also materials have been collected to that effect during investigation. F.I.R. allegations as well as the incriminating materials collected during the investigation would go to show that the Petitioner seeing the Vice President of the Durga Puja Committee of his village misbehaved him and when the Opposite Party No.2-Informant intervened into the matter, Petitioner stated to have taking name of his caste abused him and misbehaved him and also manhandled him in

the presence of the public. The aforesaid therefore attracts the ingredients of the offence, for which, cognizance on the basis of the police report has been taken. Hence, the prayer made to quash order of cognizance is devoid of merit.

6. Before addressing the contention of the parties, it would be apposite to mention here that law with regard quashment of the order of cognizance and the proceeding has since been well settled in a line of decisions of the apex Court. One of such decision is the ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd., reported in (2000) 3 SCC 269***, wherein the Apex Court have held as follows:-

“Exercise of jurisdiction under the inherent power as envisaged in Section 482 of the Code to have the complaint or the charge-sheet quashed is an exception rather than a rule and the case for quashing at the initial stage must have to be treated as rarest of rare so as not to scuttle the prosecution. With the lodgement of first information report the ball is set to roll and thenceforth the law takes its own course and the investigation ensues in accordance with the provisions of law. The jurisdiction as such is rather limited and restricted and its undue expansion is neither practicable nor warranted. In the event, however, the court on a perusal of the complaint comes to a conclusion that the allegations leveled in the complaint or charge-sheet on the face of it do not constitute or disclose any offence as alleged, there ought not to be any hesitation to rise up to the expectation of the people

and deal with the situation as is required under the law. To exercise powers under Section 482 of the Code, the complaint in its entirety will have to be examined on the basis of the allegation made in the complaint and the High Court at that stage has no authority or jurisdiction to go into the matter or examine its correctness. Whatever appears on the face of the complaint shall be taken into consideration without any critical examination of the same. But the offence ought to appear ex facie on the complaint. The truth or falsity of the allegations would not be gone into by the Court at this earliest stage. Whether or not the allegations in the complaint were true is to be decided on the basis of the evidence led at the trial.

7. It is only in cases when the allegations in the complaint do not make out any case against the accused nor do they disclose the ingredients of an offence alleged against the accused or the allegations are patently absurd and inherently improbable so that no prudent person can ever reach to such a conclusion that there is sufficient ground for proceeding against the accused, the power under Section 482 Cr.P.C. has to be exercised to quash the prosecution, is also the view in the case of *Medchl Chemicals & Pharma (P) Ltd.* (supra). Besides the same, if any statutory bar is there to proceed against the accused persons, the Court shall also not proceed against them.

8. Keeping the aforesaid settled position of law, when the present case is addressed, this Court finds that the F.I.R. allegation clearly discloses the offence to have been committed by the present Petitioner and the F.I.R. being investigated and the police has filed the charge sheet with an opinion that the allegation appears to have substance and accordingly basing on the same, the impugned order of cognizance has been passed as well as the Petitioner proceeded with.

9. Therefore, when the contention of the Petitioner is addressed vis-à-vis the materials on record and the settled position of law as held in the case of *Medchl Chemicals & Pharma (P) Ltd.* (supra), this Court is of the view that the Petitioner has no case.

10. Accordingly, the Criminal Misc. Case is devoid of merit, as such, the same stands dismissed.

(S. Pujahari)
Judge

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