

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5974 of 2014

Vattikula Krishna Murty and others

Petitioners

Mr. P.K. Mishra, Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr. A.P.Das, ASC

Mr. A.K. Mishra, Advocate

**CORAM:
MR. JUSTICE R.K. PATTANAİK**

**ORDER
24.06.2022**

Order
No.

- 04.
1. Heard learned counsel for the petitioners and learned counsel for the State. None appears for O.P.No.2.
 2. This is an application under Section 482 Cr.P.C. challenging the order of cognizance dated 3rd June, 2013 passed in G.R. Case No.160 of 2013 by the court of learned S.D.J.M., Paralakhemundi, Gajapati on the grounds inter alia that it is not tenable in view the fact that there has been a civil dispute pending between the parties and furthermore, the FIR was lodged almost after 15 days from the date of occurrence i.e. 8th April, 2013.
 3. For the alleged incident, FIR was lodged with the local police by O.P.No.2, whereupon, Gurandi P.S. Case No.30 dated 23rd April, 2013 was registered under Section 294 and other allied offences and subsequently, investigation was commenced leading to the filing of

charge sheet under the alleged offences. It further appears that the learned court below on receiving the charge sheet took cognizance of the offences vide Annexure-2 which is under challenge at the instance of the petitioners.

4. In so far as the contention of dispute being civil in nature, it is not borne out of the record. However, Mr. Mishra, learned counsel appearing for the petitioners submits that such a dispute is existing vis-a-vis the parties and the alleged incident is based on a false allegation showing the involvement of the accused persons, who have been alleged of digging the wall of the house of the informant. Even assuming that there is a civil dispute between both the sides but it is for an independent cause of action for which the FIR was lodged. In fact, from the FIR, the alleged overt acts are clearly discernible indicating the involvement to the petitioners. In other words, there is a prima facie case made out against the petitioners for their alleged involvement in the occurrence dated 8th April, 2013. In so far as the delay in lodging FIR is concerned, as submitted by Mr. Mishra, learned counsel appearing for the petitioners that it is more than 15 days and therefore, on that ground the proceeding should be quashed. However, the Court is not really impressed by the submission of Mr. Mishra since because position of law is that delay is not always fatal which may even be explained. That apart, such question of civil nature of dispute and delay in lodging FIR may be examined by the learned court below during trial. In other words, the court in exercise of jurisdiction under Section 482 Cr.P.C. would not be justified to deal with such question of fact while deciding quashing of proceeding. Having said that, there is no ground made out for the Court to quash the criminal proceeding pending before the learned S.D.J.M., Paralakhemundi.

5. Hence, the Court is not inclined to exercise jurisdiction under Section 482 Cr.P.C. and accordingly, it is ordered.

6. In the result, CRLMC stands dismissed. However, the petitioners are liberty to raise all the grounds before the learned court below at the time of framing, which in the event of being raised, the learned S.D.J.M., Paralakhemundi shall do well to consider and pass appropriate order in accordance with law.

(R.K. Pattanaik)
Judge



TUDU