

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMC No.821 of 2012**

***Somanath Sahu & others.*** .... ***Petitioners***

***-versus-***

***State of Odisha & another.*** .... ***Opposite Parties***

**CORAM: JUSTICE S.PUJAHARI**

**ORDER**

**23.03.2022**

**Order No.**

- 07.
1. This matter is taken up through Hybrid mode.
  2. The petitioners in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) have prayed for quashing of the proceeding in 1.C.C. Case No.441 of 2011 pending on the file of the learned S.D.J.M., Berhampur.
  3. Heard the learned counsel for the petitioner and the learned counsel for the State. None appears for the opposite party no.2.
  4. Learned counsel for the petitioners submits since a proceeding under Sections 498-A, 304-B of IPC and Section 4 of the D.P. Act was pending before the learned Chief Judicial Magistrate, Bareilly vide S.T. No.18 of 2012, for the selfsame

cause of action, Golanthara P.S. Case No.174 of 2011 has been registered against the petitioners pursuant to the direction passed in 1.C.C. Case No.441 of 2011 of the S.D.J.M., Berhampur under Section 156(3) of Cr.P.C. Hence, the petitioners challenging the registration of the said F.I.R. have come to this Court for quashment of the same.

5. Section 186 of Cr.P.C. mandates as follows:-

**“186. High Court to decide, in case of doubt, district where inquiry or trial shall take place.-** Where two or more Courts have taken cognizance of the same offence and a question arises as to which of them ought to inquire into or try that offence, the question shall be decided-

- (a) if the Courts are subordinate to the same High Court, by that High Court;
- (b) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced,

and thereupon all other proceedings in respect of that offence shall be discontinued.”

6. Needless to say that the Court at Bareilly as well as Golanthara Police Station where presently case is pending, are under the jurisdiction of different High Courts and for the selfsame cause of action, two cases cannot continue, if at all, cognizance in Golanthara P.S. case has been taken. Therefore, if the petitioners have any grievance for continuance of the case

here in Berhampur, he can approach the High Court, to which Bareilly Court is subordinate invoking power under Section 186 of Cr.P.C. Therefore, this petition filed on the ground that since the case is pending at Bareilly for the selfsame cause of action, the present proceeding is liable to be dropped in this case, is without any substance, that too at the stage of F.I.R.

7. Accordingly, this CRLMC stands disposed of being dismissed. Interim order dated 18.07.2012 passed by this Court stands vacated.

8. A copy of this order be communicated to the Court below forthwith.

**(S. Pujahari)**  
**Judge**

MRS

