

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3570 of 2017

***Arjun Barik alias Arjuna Kumar* *Petitioners*
Barik & others.**

M/s. S.K. Dash, P.C. Mohanty,
S.P. Dash, Advocates

-versus-

State of Odisha & another.* *Opposite Parties

M/s. Partha Sarathi Nayak, S.K. Jena,
Advocates – For O.P. No.2

**CORAM:
JUSTICE S. PUJAHARI**

**ORDER
07.01.2022**

**Order
No.**

09. **1.** This matter is taken up through Hybrid mode.
- 2.** The order dated 26.03.2007 passed by the
 learned S.D.J.M., Kamakhyanagar in I.C.C. Case No.5
 of 2007 taking cognizance of the offences under
 Sections 447, 379, 294, 506/34 of I.P.C. is sought to
 be quashed by the petitioners, by invoking the power
 of this Court under Section 482 of Cr.P.C.
- 3.** Heard the learned counsel for the petitioner
 and the learned counsel for the opposite party no.2.

4. The prosecution allegation reveals that a case was registered against the opposite party no.2 for theft of Chrome-concentrate from Zindal Stock yard and that in the pretext of investigation of the said case, the petitioners came to his house on 21.11.2006 and on the next day, i.e., on 22.11.2006 they again came to his house in his absence, with two trucks along with 5/6 other persons, and by terrorizing his wife the petitioners forcibly removed the stock of concentrate chrome, by misbehaving with and abusing his wife. On the basis of the said allegation, the aforesaid complaint case was filed against the petitioners wherein cognizance of the aforesaid offences has been taken against the petitioners. Hence, the present CRLMC.

5. The aforesaid incident, as it appears, was in relation to discharge of official duty, inasmuch as while investigating a criminal case against the opposite party no.2 the petitioners made the indulgence, and in the said case the opposite party no.2 has already been charge-sheeted. The aforesaid

having been done by the petitioner-police officers in due discharge of official duty, they could not have been proceeded against without the requisite sanction under Section 197 of Cr.P.C. Furthermore, the possibility of the complaint being actuated with malice can not be ruled out, inasmuch as the same was filed after the theft case was registered by police against the opposite party no.2 (complainant) and after he was taken to custody in connection with the very same case. Hence, continuance of the aforesaid proceeding would be an abuse of the process of law.

6. From the materials on record, there also appears hardly a prima-facie of any criminal offence against the petitioner-police officers. The impugned order, therefore, being found to be illegal and improper, needs to be quashed.

7. The CRLMC is allowed. The impugned order stands quashed.

(S.Pujahari)
Judge