

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3343 of 2010

Bhabani Charan Rath

....

Petitioner

Mr. D. Nayak, Sr. Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr. A.P. Das, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

08.04.2022

Order
No.

- 18.
1. Heard learned counsel for the petitioner and learned counsel for the State.
 2. Application under Section 482 Cr.P.C. filed by the petitioner assailing the legality and judicial propriety of the order of cognizance dated 6th August, 2010 passed in G.R. Case No.9 of 2008 arising out of Pipili P.S. Case No.9 of 2008 pending in the file of learned J.M.F.C., Pipili and also the criminal proceeding on the grounds stated therein.
 3. Gone through the FIR, a copy of which is at Annexure-1.
 4. By order dated 6th August, 2010, the learned court below took cognizance of the offences against the accused persons including the petitioner, which is currently under challenge on the ground that he is in no way involved in so far as the complaint is

concerned, which has been filed by one of the sisters, the dispute being in allotment of share, it has been alleged that the petitioner and other accused persons committed the mischief and the alleged overt act in the execution of a sale deed and disposing of the property in question.

5. As revealed from the record, the complainant filed 1.C.C. Case No.86 of 2007, which after being received by the learned court below, was sent for investigation by order dated 22nd December, 2007 in terms of Section 156(3) Cr.P.C. whereupon G.R. Case No.9 of 2008 was registered and investigation commenced which ultimately resulted in filing of charge sheet against the accused persons for offences under Section(s) 419, 420, 468, 469, 471 and 120-B IPC and accordingly, on receipt of charge sheet, the impugned order as at Annexure-2 was passed by the learned court below.

6. Mr. D. Nayak, learned senior counsel submits that even considering the facts on record specially the allegations appearing in the complaint, no case is *prima facie* made out against the petitioner, who is merely a purchaser of the property, whereas, dispute is among the sisters, some of whom disposed of the property in question in his favour. Thus, it is contended that having regard to the nature of allegations and dispute in particular and the fact that the petitioner is simply a purchaser, the criminal prosecution against him should be quashed and consequently, the order of cognizance as at Annexure-2. The learned counsel for the State, Mr, Das admits the fact that the petitioner happens to be a purchaser of the property.

7. Having gone through the contents of the complaint, nature of allegations vis-à-vis the petitioner, which is to the effect that the

complainant having approached him after the alleged sale of the property was not properly attended to by him rather was informed to leave his office and taking into account the fact that the dispute is in relation to the property over which share was demanded by her and basically dispute being between the sisters, the Court is of the considered view that the order of cognizance dated 6th August, 2010 vis-a-vis the petitioner should be quashed and accordingly, it is ordered.

8. In the result, application under Section 482 Cr.P.C. stands allowed. The order of cognizance dated 6th August, 2010 passed in G.R. Case No.9 of 2008 by the learned J.M.F.C. Pipili as against the petitioner is hereby quashed.

9. A copy of the above order forthwith be sent to the court below.

