

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.44 of 2021

Anantanarayan Behera and Another Petitioners
Mr. J. Sahoo, Advocate

-Versus-

State of Odisha and Another Opposite Parties
Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
19.10.2022

Order
No.

10.

1. Heard learned counsel for the petitioner and learned counsel for the State-opposite party No.1. None appears for opposite party No.2.

2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners assailing the impugned order dated 7th December, 2020 under Annexure-1 series and also the criminal proceeding in connection with ICC No.182 of 2019 pending in the file of learned S.D.J.M., Dhenkanal on the grounds stated therein.

3. Copy of the impugned order dated 7th December, 2020 which is at Annexure-1 is perused by the Court.

4. Learned counsel for the petitioners submits that the petitioners as well as opposite party No.2 are the lawyers of the local bar and in so far as the alleged incident which took place on 26th October, 2019, for self-same incident, initially an FIR was lodged by opposite party No.2 whereupon Dhenkanal Town P.S. Case No.329 of 2019 was registered under Sections 341, 323, 506 read with Section 34 IPC and thereafter, the complaint was filed in ICC No.182 of 2019 which is the present case and in both the cases,

the learned court below has taken cognizance of the offences. Mr. Sahoo, learned counsel for the petitioners submits that for the same occurrence, there cannot be two parallel proceedings the fact which was lost sight of by the learned court below in ICC Case No.182 of 2019 and hence impugned order under Annexure-1 is required to be quashed in the interest of justice. Mr. Praharaj, learned counsel for the State on the other hand submits that as per the impugned order under Annexure-1 series, it is made to appear that though the cases and the criminal proceedings have been initiated but for two different incidents and in fact, an enquiry was conducted by the learned S.D.J.M. Dhenkanal in that regard and therefore, impugned order under Annexure-1 series cannot be set aside on such ground.

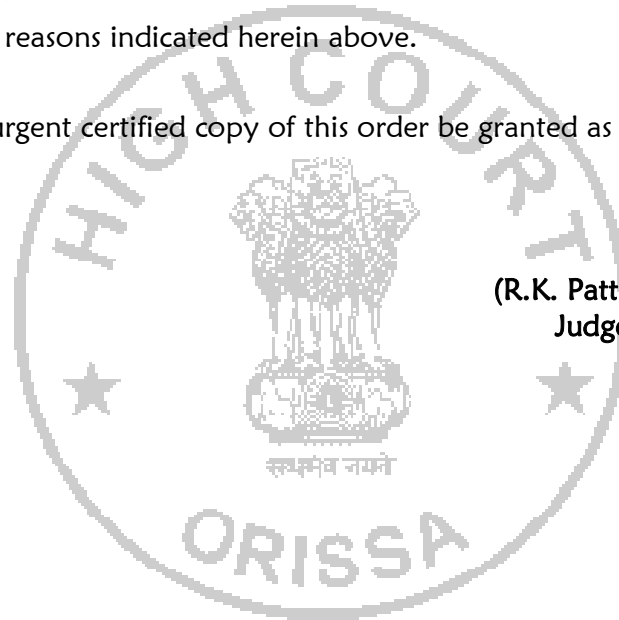
5. Mr. Sahoo, learned counsel for the petitioners refers to the statement of opposite party No.2 recorded under Section 161 Cr.P.C. in G.R. Case No.1104 of 2019 so as to suggest that in fact the alleged incident has taken place on 26th October, 2019 which was wrongly mentioned in the FIR i.e. 22nd October, 2019. In other words, according to Mr. Sahoo, the incident had happened on 26th October, 2019 thereafter, opposite party N.2 lodged the FIR and then again filed the complaint, therefore, the subsequent proceeding as a result in ICC Case No.182 of 2019 has to be quashed. The Court perused the statement of opposite party No.2 recorded under Section 161 Cr.P.C. in G.R. Case No.1104 of 2019 and in fact, it finds that he admitted to have inadvertently mentioned the date as 22nd October, 2019 instead of 26th October, 2019. Having regard to the above facts and considering the submissions of the learned counsel for the petitioners as well as State, the Court is of the view that though the enquiry in terms of Section 210 Cr.P.C. was held by the learned court below but it was on the premise that the cases are in respect of two separate incidents which was however clarified by opposite party No.2 in his statement recorded under Section 161

Cr.P.C. which is in relation to a single incident dated 26th October, 2019. Thus, in such view of the matter, the Court is of the view that the criminal proceeding in ICC case No.182 of 2019 shall have to be quashed.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands allowed, Consequently, the impugned order dated 7th December, 2020 under Annexure-1 series and the criminal proceeding in connection with ICC No.182 of 2019 pending in the file of leaned S.D.J.M., Dhenkanal is hereby quashed for the reasons indicated herein above.

8. An urgent certified copy of this order be granted as per rules.



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