

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3233 of 2011

Sri Prafula Ku. Gouda *Petitioner*
.....
State and another *Opposite Parties*
.....

versus-

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
11.04.2022

04. 1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 5th August, 2011 passed by the Executive Magistrate, Berhampur in Misc. Case No.156 of 2011, which is a proceeding under Section 144 of Cr.P.C., wherein the Magistrate has dropped the proceeding and directed both the parties to maintain status quo until they get proper order from the Civil Court.
3. Heard Ms. Deepali Mohapatra, learned counsel appearing for the Petitioner and learned counsel for the State-Opposite Party No.1. No one appears on behalf of the Opposite Party No.2.
4. Learned counsel for the Petitioner would submit that a proceeding under Section 144 of Cr.P.C. is meant to take care of an emergent circumstances and for a specific period and when the Court itself has held that the proceeding under Section 144 of Cr.P.C. was not

maintainable, thereafter it could not have directed to maintain status quo, which is in the nature of a permanent order.

5. Learned counsel for the State-Opposite Party No.1 has also support such contention of the learned counsel for the Petitioner.

6. Needless to say that Section 144 of Cr.P.C. was intended to meet the emergency. Such order cannot be a permanent or semi-permanent, as legislature never intended the same. The same can be visualized from the fact that the life of an order under Section 144 of Cr.P.C. not to remain in force beyond two months when made by a Executive Magistrate unless the same is extended by the Government in which case it can remain in force for six months. Though the court after passing of the preliminary order have held that the proceeding is not maintainable, but directed the parties to maintain the status quo. The same is without jurisdiction and also mandate of Section 144 of Cr.P.C. Therefore, this Court is of the view that the same cannot be sustained. Otherwise also, if the court could have held that restrain any of the parties even if it was maintainable, the same could not have been beyond the period prescribed. Since the learned Executive Magistrate in oblivious to the same, passed the order of status quo in the said proceeding, which was beyond its jurisdiction, the same is liable to be quashed in exercise of inherent power of this Court.

7. I would, therefore, allow this Criminal Misc. Case and quash the impugned order status quo as passed by the learned Executive Magistrate, Berhampur in Misc. Case No. 156 of 2011.

8. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

DA

