

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1137 of 2011

Dutika Suna

....
Petitioner
Mr. B.B. Routray, Advocate

-Versus-

State of Odisha

....
Opposite Party
Mr. S.N. Das, ASC

CORAM:
JUSTICE R.K. PATTANAİK

ORDER
08.04.2022

Order No.

09.

1. Application under Section 482 Cr.P.C. is filed by the petitioner to quash the impugned order dated 9th December 2010 passed in U.I. Case No.155 of 2005 by the learned J.M.F.C., Sohela.

2. Gone through the contents of the F.I.R. as at Annexure-1 and other documents.

3. In fact, as revealed from the record, initially, an F.I.R. was lodged, for which Sohela P.S. Case No.78 of 2004 under Section 380 IPC was registered and after investigation, a final report was submitted by the local police. It is further revealed that after the final report was submitted, a protest petition was filed by the petitioner, accepting which, the court below took cognizance of the offences punishable under Section(s) 147/148/427/ 323/380 and 149 IPC read with Section 3 SC/ST (PA) Act vide I.C.C. No.47 of 2006. As far as the present case is concerned, it is contended that an U.I. case was registered against the petitioner for having made false allegation where upon the learned J.M.F.C., Sohela took

cognizance under Section 211 IPC and issued summons to her. It is further contended that when a protest petition was filed and on that, the learned court below has taken cognizance of offences, the proceeding in so far as U.I. Case No.155 of 2005 is concerned and the order of cognizance dated 15th March, 2005 cannot be sustained and therefore, the same should be quashed.

4. Mr. Das, learned counsel for the State, on the contrary, would contend that there is no illegality in so far as the impugned order at Annexure-4 is concerned and therefore, it should not be disturbed.

5. Of course, in the present case, the prosecution has been initiated against the petitioner under Section 211 IPC in respect of which the learned court below has taken cognizance by an order dated 15th March, 2005 which is currently under challenge and also the fact that, as against the final report submitted by the local police, the petitioner did approach the court below and filed a protest petition, whereupon, cognizance of the offences has been taken. According to the Court, both the proceedings are distinct and independent of each other. In so far as the PR under Section 211 IPC is concerned, it may so happen that she could be fully exonerated of the allegation made by the local police for having lodged the false F.I.R. The petitioner could also take such defence including the taking of cognizance by the court on the basis of the protest petition later to the submission of the final report. The Court, therefore, is not inclined to disturb the order of cognizance as at Annexure-4 solely on the ground that the complaint at the instance of the petitioner is pending before the court below after having taken cognizance of the alleged offences.

6. Accordingly, it is ordered.

7. In the result, the CRLMC is dismissed.

(R.K. Pattanaik)
Judge

KC Bisoi

