

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1100 of 2011

V.S.C.S. Rao and another *Petitioners*
versus-
State of Orissa and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
17.08.2022

13. 1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioners with a prayer to quash the order dated 18th December, 2010 passed by the learned S.D.J.M., Jeypore in 1.C.C. No.120 of 2010, taking cognizance under Sections 341, 294, 323, 506 read with Section 34 of the I.P.C.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party No.1. No one appears on behalf of the Opposite Party No.2, though represented by his counsel.
4. The allegation of the prosecution is that on 29th July, 2010, the Opposite Party No.2/Complainant with his friend while proceeding the State Highway from Jeypore to Nabrangpur in a bike at about 2.30 P.M., on the way the Petitioners suddenly came towards to the Opposite Party No.2/Complainant with a pistol and by that time, the

Petitioner No.2 caught hold his hand and did not allow him to proceed them. Thereafter, the Petitioners snatched away two numbers of Rs.500/- notes from the shirt pocket of the Opposite Party No.2/Complainant. Hence, the complaint.

5. Petitioners have come to this Court for quashment of the order of cognizance on the ground that on 29th July, 2010, the vehicle of the Opposite Party No.2/Complainant during the M.V. checking was found to have committed certain offences and, as such, F.I.R. lodged against the Opposite Party No.2/Complainant and others and prior to the aforesaid complaint, the Opposite Party No.2 along with him some others have gone to the Papadahandi Police Station where they were demanded to release a truck, which was seized by the Petitioner No.2, as the said vehicle was running without having fitness certificate and valid documents. When the Petitioner No.2 expressed his inability in the absence of the order of the competent court, the Opposite Party No.2 along with others did not allow him to work and threatened them to dire consequences. As such, the F.I.R. has been lodged against them vide Papadahandi P.S. Case No.137 of 2010. Then a complaint was filed by the Opposite Party No.2/Complainant against the Petitioners on 5th August, 2010 concocting the aforesaid allegations.

6. Therefore, the aforesaid being actuated with malice, the prosecution against the Petitioners is liable to be quashed,

moreso when no sanction was obtained from the authority concerned.

7. During the course of hearing, no material to that effect is produced and this being case of the year 2011, even though the learned counsel for the Petitioners seeks adjournment to substantiate the case of the Petitioners by producing documents. This Court is not inclined to do so.

8. But, liberty is given to the Petitioners to raise all such contentions at the time of charge before the Court in seisin over the matter inasmuch as the aforesaid case is a triable by warrant procedure and the Petitioners have scope to bring the aforesaid materials to the record of the trial court in the appropriate manner and advanced their argument that allegation against them is false and concocted and for the aforesaid reasons, the complaint was lodged including the question of want of sanction under Section 197 of Cr.P.C. as that can be raised at any stage of proceeding is well settled, this petition stands disposed of.

9. However, the Petitioners being police officers, if they file a petition under Section 205 of Cr.P.C. before the trial court within six weeks hence, the trial court shall dispense with their personal attendance with undertaking not to dispute their identity and also to remain present as and when directed by the trial court. Then proceed with the case in the manner known to law. Failure to comply with the same shall

expose them to take coercive steps by the court in seisin over the matter to procure their attendance.

(S. Pujahari)
Judge

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