

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.130 of 2016

Hrudaya Mahananda

....

Petitioner

-versus-

Kanti Hati

....

Opposite Party

CORAM: JUSTICE S. PUJAHARI

ORDER
30.06.2022

Order No.

06.

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 24th December, 2015 passed by the learned S.D.J.M., Nuapada in I.C.C. No.41 of 2015, taking cognizance of the offences under Section 294, 323, 354, 506 read with Section 34 of the I.P.C.
3. Heard the learned counsel for the Petitioner. No one appears on behalf of the Opposite Party-Complainant in spite of sufficiency of service of notice.
4. It appears that the Petitioner, who is an A.S.I. of Police, had been to the spot where he stated to have misbehaved the Complainant-Victim and allegedly committed the offence.
5. It is stated by the learned counsel for the Petitioner that since the Petitioner has discharged his official duty, in the absence of sanction under Section 197 of Cr.P.C., he could not have been proceeded with.

6. However, the Petitioner having no jurisdiction to enter to a dispute with regard to vacation of the house between the landlord and tenant at the instance of the landlord, appears to have proceeded to the spot for the purpose of vacation of the house of the landlord and committed the offence. The offence, therefore, cannot be said to be any nexus to discharge of his official duty rather the office has been used as a cloak to commit the offence.

7. Accordingly, the Criminal Misc. Case filed challenging the impugned order or cognizance and issuance of process for lack of sanction is devoid of merit and, as such, the same stands dismissed.

8. Accordingly, the CRLMC stands dismissed.

9. However, if the Petitioner makes an application under Section 205 of Cr.P.C. within eight weeks hence before the court in seisin over the matter, the court in seisin over the matter shall consider the same taking note of the fact that the offences alleged against him are not serious in nature and the Petitioner is a public servant, to dispense with his personal appearance on such terms and conditions as deem fit and proper.

(S. Pujahari)
Judge

DA