

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.625 of 2017

Sndip Kumar Kanhar @ Sandeep ***Petitioner***
Kumar Kanhar

Mr. D.R. Swain, Advocate

-versus-

State of Orissa ***Opp. Party***
Mr. S.R. Roul, ASC

CORAM:
JUSTICE G. SATAPATHY

ORDER

13.12.2022

Order No.

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S.482 of Cr.P.C by the petitioner praying to quash the criminal proceeding in G.R. Case No.302 of 2012 arising out of Phulbani Town P.S. Case No.122 of 2012 for commission of offence U/S.420 of IPC.
 3. The allegation in precise is that the petitioner by deceiving the informant has taken away Rs.40,000/- (Rupees Forty Thousand) on the pretext of purchasing a bike to be delivered to the son-in-law of the informant at the time of marriage.
 4. Mr. D.R. Swain, learned counsel for the petitioner submits that the petitioner and informant are known to each other and at times of need, the petitioner takes hand loan from the informant and, accordingly, in this case the petitioner had taken a hand loan, but the informant misusing the trust has approached the police for criminal action against the petitioner and the dispute between the petitioner and the informant is purely civil in nature and, therefore, the present

criminal proceeding against the petitioner may be quashed.

5. Mr. S.R. Roul, learned ASC in reply submits that since the petitioner has deceived the informant, therefore, the criminal proceeding may not be quashed.

6. After having considered the rival submission upon reference to the record, it appears from the FIR that there is an allegation against the petitioner for deceiving the informant for an amount of Rs.40,000/- (Rupees Forty Thousand) on the pretext of purchasing a bike to be delivered as a dowry in the marriage of the daughter of the informant. The test that is to be applied for quashing of a criminal proceeding has laid down by the Apex Court and this Court more than once in a catena of decisions and such test to be applied for quashing the criminal proceeding by the Court is to find out whether the uncontroverted allegation on record *prima facie* disclose commission of offence and make out a case against the person approaching the Court to quash the proceeding.

7. When the allegations on record against the petitioner are scrutinized on the aforesaid principle, this Court does not find the case of the petitioner to be deserved to be quashed since at this stage, there is a *prima facie* allegation against the petitioner for cheating the informant. In view of the aforesaid discussion and facts, the CRLMC being unmerited is liable to be rejected.

8. Resultantly, the CRLMC is dismissed on contest, but in the circumstance without any costs.

(G. Satapathy)
Judge