

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1063 of 2011

Balabhadra Patel & another. ***Petitioners***

-versus-

Balaram Bandichhod. ***Opposite Party***

CORAM: JUSTICE S.PUJAHARI

ORDER
23.03.2022

Order No.

- 06.
1. This matter is taken up through Hybrid mode.
 2. The petitioners in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) have prayed for quashing of the order dated 10.12.2010 passed by the learned J.M.F.C., Jaipatna in I.C.C. Case No.5 of 2010 taking cognizance of the offences under Sections 420, 406/34 of IPC.
 3. Heard the learned counsel for the petitioners. None appears for the opposite party.
 4. It is stated by the learned counsel for the petitioners that since the first complaint filed against the petitioners at the instance of the present opposite party vide I.C.C. Case No.14 of

2010 before the court of the learned SDJM, Dharamgarh was dismissed for default on 17.11.2010, the second complaint, i.e., I.C.C. Case No.5 of 2010 filed against the petitioners at the instance of the present opposite party before the learned J.M.F.C., Jaipatna is not maintainable.

5. However, in view of the law laid down by the Apex Court in the case of ***Pramatha Nath Talukdar and another vrs. Saroj Ranjan Sarkar***, reported in AIR 1962 SC 876 and subsequent decisions of the this Court that as the complaint was not dismissed under Section 203 of Cr.P.C. but dismissed for default for non-production of witnesses under Section 202 of Cr.P.C., this Court is of the view that the prayer made in this CRLMC to quash the impugned order of cognizance passed in the second complaint as well as the proceeding against the petitioners is devoid of merit.

6. Accordingly, this CRLMC filed challenging the impugned order of cognizance stands dismissed. Interim order dated 22.04.2011 passed by this Court stands vacated.

7. A copy of this order be communicated to the Court below forthwith.

(S. Pujahari)
Judge

MRS