

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3919 of 2011

Priti Ranjan Samal and others *Petitioners*
-versus-
State of Odisha *Opposite Party*

CORAM: JUSTICE S. PUJAHARI

ORDER

04.04.2022

Order
No.

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 of cognizance dated 8th March, 2011 passed by the learned S.D.J.M., Talcher in G.R. Case No.206 of 2010.
3. Heard the learned counsel for the parties.
4. Learned counsel for the Petitioners submits that no prima facie case being made out, the order of cognizance as well as the aforesaid proceeding against the Petitioners is liable to be quashed. He in this regard relies an affidavit stated to have been filed wherein the witnesses examined by the police have stated that they have no grievance against the Petitioners. Therefore, it is submitted that when the aforesaid militate material collected by the police with regard to indictment of the Petitioners by those witnesses, the order of cognizance and

consequential proceeding against the Petitioners is liable to be quashed.

5. Learned counsel for the State, however, defends the impugned order as the police papers submitted under Section 173 of Cr.P.C. prima facie discloses of the offence to have been committed.

6. At the stage of cognizance, the Court has to look into the police papers submitted under Section 173 of Cr.P.C. and from the same, if prima facie it emerges that a particular offence has been committed, to take cognizance of the same and proceed against the person, against whom incriminating materials are there indicating their involvement in commission of the offence. No scope is available at this stage to look into the material produced by the accused and basing on the same, weigh the veracity of the version of the witnesses as the accused have nothing to say at state stage. So also this Court in exercise of power under Section 482 of Cr.P.C. cannot look into the same and weigh the truth and veracity of the version of the witnesses recorded by police and quash the prosecution on the ground that the investigation is perfunctory.

7. However, since the parameters of framing of charge being different, then a prima facie case which is requirement at the stage of cognizance, so also at that stage, the contention of the accused is also required to be addressed and if any material on the record brought to the notice of the court, which militate

against the prosecution case, this Court dispose of this petition giving liberty to the Petitioners to raise all his contentions at the time of framing of charge and in that event, the Court in seisin over the matter without being influenced by the reluctance of this court to interfere with the order of cognizance, address such prayer of the Petitioners on its own merit.

8. With the aforesaid order and observation, this Criminal Misc. Case is dismissed.

(S. Pujahari)
Judge

DA

