

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1644 of 2016

AFR

Rajendra Kumar Singh and another *Petitioners*
Mr. N.P. Parija, Advocate

-versus-

State of Orissa and others *Opp. Parties*
S.S. Pradhan, A.G.A.

CORAM:
JUSTICE G. SATAPATHY

ORDER
04.11.2022

Order No.

11. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. The Petitioners by way of this application under section 482 Cr.P.C. seek for quashing of an order passed on 19.03.2015 by learned S.D.J.M., Keonjhar in G.R. Case No. 278 of 2015 taking cognizance of offence under sections 341/294//323/506/34 IPC.
3. In the course of hearing of this CRLMC application, learned counsel for the Petitioners submits that there are two cases arising out of same occurrence and in one case the Petitioners are the informant whereas in other case they are the accused persons. It is further submitted by the learned counsel that during the time of occurrence, the informant groups were collecting Dada Bati which was objected to by the Petitioners and later on they lodged an F.I.R against the informant who in order to get rid of that case has lodged this false case against the Petitioners but the learned S.D.J.M. without applying his judicial mind and also without perusing the materials on record

took cognizance of an offences by the impugned order which is bad in the eye of law and needs to be quashed. It is accordingly prayed by the learned counsel for the Petitioners to quash the order taking cognizance of offences.

4. On the contrary, learned counsel for the State submits that the F.I.R. and 161 statement of the informant as well as the statement of other eye witnesses clearly make out a prima facie case against the Petitioners and the learned S.D.J.M., has not committed any illegality by taking cognizance of offences.

5. After having considered the rival submissions upon reference to the allegations on record, it appears that one Akhaya Kumar Mahanta had lodged the FIR alleging therein that the Petitioner Rajendra Kumar Singh being the husband of local Sarapanch was demanding 50% share in the collection amount of the weekly market of village from the club members and when he protested, the Petitioners abused him in filthy language and threatened by suddenly attacking him. It is further alleged in the F.I.R. that the Sarpanch Jayanti Singh by coming to the spot after a while, they jointly assaulted and threatened him to take away his life.

6. Law is well settled that if the F.I.R. read together with statement of witnesses and other documents as collected by the Investigating Agency do not disclose commission of any offence, the criminal proceeding can be terminated by exercise of power under section 482 Cr.P.C., but when the uncontroverted allegations appearing in the FIR together with statement of witnesses disclose or constitute some offence, the Court cannot exercise its jurisdiction under Section 482 Cr.P.C. to quash the proceedings. In this case, the Petitioners have raised a point that there is allegation and counter

allegation against each other by two groups of people and two F.I.Rs. have been lodged by both the parties against each other, but when the allegations appearing in the F.I.R. lodged against the Petitioners are considered vis-à-vis the impugned order, it cannot be said that the impugned order has been passed mechanically without adverting to the materials placed on record. It is true that in such situation, the cases arising out of both the F.I.Rs. relating to same transaction are to be consolidated and tried by the same Court. Further, the Inherent jurisdiction of this Court under section 482 Cr.P.C. albeit wide but has to be exercised sparingly with great care and circumspection. If any abuse of the process of Court leading to injustice is brought to the notice of the Court, the Court should not feel reluctant to exercise such power to prevent injustice to prevail over justice. In ***State of Haryana Vrs. Bhajan Lal; 1992 Supp (1) SCC 335*** the Apex Court at Paragraph-102 has laid down an exhaustive list to myriad kinds of cases for exercise of inherent power by the High Court and Paragraph-102 (3) therein is one of the ground of quashing of criminal case, which is reproduced as under:

“Where the uncontroverted allegations made in the F.I.R. or complaint and the evidence collected in support of the same do not disclose commission of any offence and make out a case against the accused.”

In the case at hand, learned counsel for the Petitioners could not convince the Court that the allegations on record do not constitute commission of any offence nor the impugned order has been passed without application of mind. Further, on conspectus of the materials on record, this Court does not find the learned Court to have committed any error or illegality or perversity in passing the

impugned order so as to warrant exercise of inherent power of this Court.

7. In view of the above facts and discussion made herein above together with the law laid down by the Apex Court in ***Bhajan Lal(supra)***, this Court does not find any justification to interfere with the impugned order by which the learned S.D.J.M. has taken cognizance of offences in exercise of power conferred upon him and on consideration of materials placed on record.

8. In the result, the CRLMC is dismissed on contest, but in the circumstance there is no order as to cost.

Priyajit

