

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 146 of 2021

Anil Kumar Das

....

Petitioner

Mr. Susanta Kumar Baral, Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr.Sidharth Shankar Mohapatra, ASC, OP No.1

None for OP No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

28.10.2022

Order No.

12.

1. Heard learned counsel for the petitioner and learned counsel for the State. None appears for opposite party No.2 at the time of call.

2. Instant petition is filed by the petitioner for quashing of the order of cognizance dated 30th September, 2020 passed by the learned J.M.F.C., Salipur in G.R. Case No.231 of 2020 arising out of Salipur P.S. Case No.109 of 2020 on the grounds stated therein.

3. Learned counsel for the petitioner submits that petitioner is a retired police officer and so far as the informant is concerned, he was the IIC of the concerned PS. It is further submitted that the informant lodged an FIR with false allegations made therein, inasmuch as, no such incident had ever happened on 15th March, 2020.

4. Learned counsel for the petitioner refers to the chargesheet and statements of witnesses recorded under Section 161 Cr.P.C, and

submits that in order to wreak vengeance, the informant with malafide intention lodged the FIR whereupon chargesheet has been filed and the learned court below took cognizance of the offences under Sections 179, 183, 186, 353, 294, 506 IPC against the petitioner in G.R. Case No.231 of 2020.

5. Mr. Mohapatra, learned ASC for the State submits that the contention of the learned counsel for the petitioner is purely based on facts and it can only be examined by the learned court below during trial and it is not a case where inherent power under Section 482 Cr.P.C. should be exercised to quash the criminal proceeding.

6. The Court perused the copy of the FIR so also the copy of the chargesheet and statements of witnesses recorded under Section 161 Cr.P.C., which are at Annexure-1 series and certified copy of the impugned order dated 30th September, 2020.

7. As per the FIR, the incident has taken place on 15th March, 2020. It is alleged that the petitioner misbehaved the informant and used obscene language as described in the FIR. It is claimed that there was no such incident but then the FIR was lodged. The Court is of the view that the truthfulness or otherwise of such claim can only be verified during trial. Considering the contents of the FIR, the chargesheet and as learned court below has taken cognizance of the offences, the court is of the opinion that it is not a fit case to quash the proceeding but liberty should be granted to the petitioner to raise all the grounds at the time of framing of charge. Accordingly, it is ordered.

8. Consequently, the CRLMC stands disposed of with liberty to the petitioner to raise all such grounds as are available to him in law at the time of framing of charge and in the event it is so urged, learned J.M.F.C., Salipur shall pass appropriate order as per and in accordance with law. It is further directed that since learned court

below has issued NBWA, the petitioner is to surrender before the learned J.M.F.C., Salipur on or before 11th November, 2022 in G.R. Case No.231 of 2020 arising out of Salipur P.S. Case No.109 of 2020 and in such an event, the learned court below shall release him on bail on such terms and conditions as deem just and proper in the facts and circumstances of the case.

9. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

