

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3062 of 2015

Manju Agarwal and Another Petitioners
Mr. Manoj Verma, Advocate

-Versus-

State of Odisha and Another Opposite Parties
Mr. Sitikanta Mishra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
21.12.2022

Order No.

- 02.
1. Heard learned counsel for the petitioner and learned counsel for the State.
 2. Instant petition under Section 482 Cr.P.C. is filed at the behest of the petitioner for quashing of the criminal proceeding in 2(c) C.C. Case No.570 of 2012 pending in the file of learned J.M.F.C., Jharsuguda on the grounds inter alia that the same is not tenable in law.
 3. Perused the copy of the impugned order at Anneuxre-2, whereby, learned court below has taken cognizance of the offences under PC&PNDT Act; and also the PR as at Annexure-4.
 4. Learned counsel for the petitioner submits that the P.R. as at Annexure-4 was filed by the learned Executive Magistrate-cum-Tahasildar, who is not the authority as per the provisions of

PC&PNDT Act and Rules read with the Office Memorandum, 2007 whereby the District Magistrate of each district and Sub-Divisional Magistrate (Sub-Collector) of each Sub-division are the designated Appropriate Authority and so the complaint is not properly constituted and filed, hence, not sustainable in law.

5. Mr.Mishra, learned counsel for the State on the other hand submits that learned court below has taken cognizance of the alleged offences under Annexure-2 in the year 2012.

6. Learned counsel for the petitioner submits that the present case is squarely covered by the judgment of this Court in CRLMC No.4249 of 2009 disposed of along with batch of cases in **Sudhir Kumar Brahma and Others Vrs. State of Odisha and Others** reported in **MANU/OR/0649/2022** and therefore, the criminal proceeding against the petitioner should also be quashed.

7. In the decision cited (supra), the Court had the occasion to examine the relevant provisions of PC&PNDT Act and it has been concluded therein that unless the complaint is by the Appropriate Authority in terms of Section 17(3) and 28 of PC&PNDT Act and Office Memorandum dated 27th July, 2007 of the Government of Orissa in Health & Family Welfare Department, it cannot be maintained in law.

8. Considering the submissions of learned counsel for the respective parties and keeping in view the decision of this Court in **Sudhir Kumar Brahma** (supra) and the pleadings in the present case, the Court is of the view that the complaint in 2(C)CC Case No.570 of 2012 pending before the learned J.M.F.C., Jharsuguda cannot be allowed to survive and continue.

9. Accordingly it is ordered.

10. Consequently, the criminal proceeding in 2(C)C.C. Case No.570 of 2012 pending in the file of learned J.M.F.C., Jharsuguda is hereby quashed.

11. Issue urgent certified copy of this order as per rule.

(R.K. Pattanaik)
Judge

U.K.Sahoo

