

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.635 of 2022

Smitarani Sahu and Others

.... Petitioners
Mr. B.K. Behera, Advocate

-Versus-

State of Odisha and Another

.... Opposite Parties
Mr. S.S. Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
18.11.2022

Order
No.
06.

1. Heard learned counsel for the petitioners and learned counsel for the State. Mr. Chand, learned counsel for opposite party No.2 is not present at the time of call.
2. In the instant case, the prayer is to quash the order of cognizance dated 11th August, 2021 in connection with G.R. Case No.676 of 2021 corresponding to Berhampur Mahila P.S. Case No.57 dated 19th April, 2021 pending in the file of learned S.D.J.M., Berhampur on the grounds stated therein.
3. A copy of the FIR is at Annexure-1 and the same is perused by the Court. A copy of the chargesheet is also submitted for the Court's perusal as at Annexure-2.
4. Learned counsel for the petitioners submits that the husband and parents-in-law have been made accused at the instance of the opposite party No.2, who was not inclined to stay with them and by making false allegations, the FIR was lodged, as a result of which,

Berhampur Mahila P.S. Case No.57 of 2021 was registered under Section 498-A IPC and other allied offences.

5. Learned counsel for the further submits that under the above circumstances, considering the conduct of opposite party No.2 and the fact that, petitioner No.3, namely, the husband filed a divorce proceeding against her, later to which, the FIR was lodged and that apart, she also initiated a D.V. case pending before the court, the criminal proceeding should be stayed in the interest of justice which is objected to by Mr. Mohapatra, learned counsel for the State on the ground that all such grounds may be considered by the learned court below at the time of framing of charge.

6. The Court is of the view that such disputed questions of facts are to be examined by the court of learned S.D.J.M., Berhampur during enquiry and trial and cannot be ground so as to quash the criminal proceeding in exercise of inherent jurisdiction. In other words, no case is made out by the petitioners for interference with the impugned order dated 11th August, 2021. The learned counsel for the petitioners also claims that liberty may be granted to the petitioners to raise all the grounds at the time of framing of charge.

7. Accordingly, it is ordered.

8. In view of the above submissions of leaned counsel for respective parties, CRLMC stands disposed of with a liberty granted to the petitioners to raise all and every such ground as available to them under law before the court of learned S.D.J.M., Berhampur in G.R. Case No.676 of 2021 while seeking discharge and if any such application so moved in that regard, the court below shall consider

the same and pass appropriate order as per and in accordance with law.

9. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

Tudu

