

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.717 of 2022

Kuna Sahu and others

....

Petitioners

Mr. S. Mohanty, Advocate

-versus-

State of Odisha and another

....

Opposite Parties

Ms. S. Mishra, A.S.C.

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

06.04.2022

Order No.

01.

1. Heard Mr. S. Mohanty, learned counsel for the Petitioners as well as Ms. S. Mishra, learned A.S.C. for the State-Opposite Party No.1.

2. The Petitioners in the present application has prayed for quashing of Daringibadi P.S. Case No.133, dated 12.08.2021 registered for commission of offences under Secs.447/427/294/506/34, I.P.C.

3. Learned counsel for the Petitioners submits that the allegations made in the FIR do not make out the offences prima facie, and the civil suit pertaining to land dispute is pending between the parties.

4. Upon perusal of copy of the FIR under Annexure-7, I am not convinced with the submission that no offence is made out from the allegations made in the FIR. Admittedly no other document or material collected in course of investigation has been produced by the Petitioners.

5. The Petitioners relies on the decision of the Supreme Court in the case of *Syed Yaseer Ibrahim vs. The State of Uttar Pradesh and another*, 2022 SCC OnLine SC 271, to contend that initiation of the present criminal proceeding is hit by the doctrine of *lis pendens*. Upon perusal of the aforesaid decision, it reveals that the Supreme Court has observed at paragraph 8 that, the execution of the sale deed during pendency of the suit may attract the doctrine of *lis pendens*, but from reading the charge-sheet as it stands it is evident that there is no element of criminality which can stand attracted in a matter which essentially involves a civil dispute between the appellant and the second respondent.

Therefore, learned counsel for the Petitioners is under the misconception that the doctrine of *lis pendens* will apply to a criminal proceeding.

6. In the instant case, learned counsel for the Petitioners is unable to say if the investigation is complete or not. Learned counsel for the Petitioners is unaware of the stage of investigation. Therefore in the given facts and circumstances of the present case, no merit is seen in the contention of the Petitioners to warrant any interference in the criminal proceeding.

7. Accordingly, the CRLMC is dismissed being devoid of merit.

(B.P. Routray)
Judge