

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1434 of 2017

Arun Jyoti Pattnaik

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Petitioner

versus-

Lal Mohan Sadangi and others

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Opposite Parties

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
16.05.2022

- 06.
1. This matter is taken up through hybrid mode.
 2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 9th February, 2017 passed by the learned S.D.J.M., Berhampur in 1.C.C. No.91 of 2016 wherein the petition filed by him to drop the proceeding and discharge him as an accused, has been rejected.
 3. Heard the learned counsel for the Petitioner and the learned counsel for the Opposite Party No.1.
 4. The Petitioner has sought for quashment of the aforesaid order on the ground that when cause of action stated to have arisen, he was in no manner associated with the company, as such, the prosecution against him was misconceived and liable to be quashed.
 5. According to the Petitioner, since he has resigned from the company which was also published in the newspaper much

prior to the cause of action, he is vicariously not liable invoking the period under Section 141 of N.I. Act for the offence under Section 138 of the N.I. Act. As such, the proceeding is liable to be quashed.

6. As it appears from the impugned order, the Petitioner was associated with the company and entered into an agreement with the Complainant representing the company. The aforesaid agreement to supply the land. But, when the same could not be supplied, the cheque was drawn in favour of the Complainant which stated to have been dishonored on presentation on 21st January, 2016. The Petitioner made a self declaration in the newspaper that he is no more associated with the company in the paper as he has resigned from management. As such, he is not responsible for the act of the company. Thereafter, when the cause of action arose for filing the complaint, after the aforesaid, the trial court could not have taken cognizance on the same was his case, as such he prayed the same to be dropped. The trial court though had no jurisdiction to entertain such prayer, but entertaining the same, refused to allow such prayer of the Petitioner on the ground that the prima facie case is there, as the Petitioner was associated with the company.

7. There is no material on record indicating from the Register of the Company that the Petitioner was not associated with the company on the date the cause of action arose. Admittedly, he represented the company when the agreement was entered, which stated to have drawn the offending cheque.

In such premises, even if the Petitioner stated by his self declaration that he was no more associated with the company when the cause of arose, the proceeding cannot be quashed on the ground stated, moreso when the same depends on the proof of the aforesaid fact pleaded by the Petitioner.

8. Hence, the Criminal Misc. Case filed is devoid of merit and, as such, the same stands dismissed.

9. Trial court is directed to expedite the trial.

10. However, the trial court shall not influence by this order while rendering the judgment inasmuch as the same is appreciation of the evidence while adduced at the time of trial.

11. Interim order dated 24th July, 2017 passed in the present application stands vacated.

(S. Pujahari)
Judge

DA