

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2375 of 2015

Bhakta Ram Purohit

....

Petitioner

-versus-

***Sub-Divisional Magistrate,
Sonepur & another***

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

17.08.2022

**Order
No.**

05.

1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Petitioner.
3. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the entire proceeding in Case No.53 of 2014 pending before the Sub-Divisional Magistrate, Sonepur.
4. It appears that the Petitioner has challenged the show cause notice in a proceeding under Section 133 Cr.P.C. for causing nuisance by him on the ground that the notice is vague and the Petitioner having paid the royalty as demanded by the Tahasildar, allowing the proceeding would amount to double jeopardy. The materials on record would reveal the Petitioner has appeared and denied to have caused the public nuisance as alleged in response to the show cause notice. In such premises, the Sub-Divisional Magistrate has to proceed in the manner provided under Chapter X-B of the Code of Criminal Procedure

to ascertain whether the public nuisance was caused by him and proceed in the case accordingly. Therefore, the Sub-Divisional Magistrate being in seisin over the matter, this Court is not inclined to interfere with the same on the ground stated as pursuant to the notice of show cause impugned in this case, the Petitioner has already responded and also the maxim of double jeopardy is not applicable to the facts and circumstances of the case. However, the Sub-Divisional Magistrate, Sonepur is directed to dispose of the aforesaid proceeding not later than three months from the date of receipt of a certified copy of this order in the manner known to law.

5. With the aforesaid order, this CRLMC stands disposed of being dismissed.

6. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

PKS