

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2431 of 2008

Padmalochan Panda.

....

Petitioner

-versus-

State of Odisha & another.

....

Opposite Parties

CORAM:

JUSTICE S. PUJAHARI

ORDER

22.02.2022

Order
No.

21. 1. The petitioner has sought to invoke the jurisdiction of this Court under Section 482 of Cr.P.C. for quashing of the order dated 24.04.2006 passed by the learned J.M.F.C., Barbil in I.C.C. No.5 of 2003, vide which on the complaint of the opposite party no.2 herein cognizance has been taken of the offences under Sections 294, 342, 323 and 506(ii) of IPC against him.
2. Heard Mr. S.S. Das, the learned senior counsel appearing for the petitioner and the learned Addl.

Standing counsel appearing for the State. None appears for the opposite party no.2.

3. As it appears, at the relevant time the petitioner was serving as the Inspector-In-charge of Barbil Police Station, and in the said Police Station, a case had been registered vide Barbil P.S. Case No.40 of 2003 against the complainant-opposite party no.2 and others under Sections 147/148/458/294/307/506/149 of IPC read with Section 7 of the Criminal Law Amendment Act, corresponding to G.R. Case No.69 of 2003 in the court of the SDJM, Barbil, and after completion of investigation, charge-sheet had been filed against the complainant and the co-accused person.

4. The opposite party no.2 filed the complaint alleging, inter-alia, that since he was working for the interest and upliftment of the workmen engaged in the Mining Company of M/s. S. Lal Sarda, Sayabali, the

Management in connivance with the petitioner foisted false case (G.R. Case referred to above), and the petitioner along with other police officials put him behind the bar, assaulted him, scolded him filthy and threatened him to do away with his entire family if he did not leave Barbil area. The learned SDJM proceeded with the complaint under Chapter-XV of the Cr.P.C. and passed the order impugned.

5. It is the contention of the learned senior counsel appearing for the petitioner that the learned Court below failed to apply judicial mind to the admitted factual backdrop that the complainant had been charge-sheeted by police for some grave offences preceding the filing of the complaint, and the alleged overt acts had direct nexus with the discharge of public duty of the petitioner-police officer. It is his further submission that the materials produced by the complainant do not make out the offences taken cognizance of, and that the complainant in order to

feed fat his grudge has filed the complaint against the petitioner as a counter blast to the G.R. case, and that continuance of the proceeding before the Court below would cause great prejudice to the petitioner. In support of his submission, the learned senior counsel has placed reliance on a decision of this Court in the case of **Sukumar Panigrahi vs. State of Orissa and another**, reported in (2001) 20 OCR 473.

6. Needless to say that, the Apex Court in the case of **Matajog Dobey vs. H.C. Bhari** reported in **AIR 1956 SC 44** with regard to sanction, have held as thus:

“In Shreekantiah Ramayya Munipalli v. The State of Bombay(1), Bose, J. observes as follows: "Now it is obvious that if section 197 of the Code of Criminal Procedure is construed too narrowly, it can never be applied, for of course, it is no part of an official's duty to commit an offence and never can be. But it is not the duty we have to examine so much as the act, because an official act can be performed in the discharge of official duty as well as in dereliction of it. The section has content and its language must be given meaning". The question of previous sanction also arose in Amrik Singh v. The State of PEPSU(6). A fairly lengthy discussion of the authorities is followed up with this summary: "If the acts complained of are so integrally connected with

the duties attaching to the office as to be inseparable from them, then sanction under section 197(1) would be necessary; but if there was no necessary connection between them and the performance of those duties, the official status furnishing only the occasion or opportunity for the acts, then no sanction would be required".

7. Having gone through the materials on record vis-à-vis the submission advanced, this Court finds merit in the contention of the petitioner. In the facts and circumstances, the learned Court below ought to have considered application of the provision under Section 197 of Cr.P.C. to the case. That apart, as it appears, the complaint has been filed as a counter blast to the G.R. case in which the complainant was charge-sheeted for different offences including the one under Section 307 of IPC. In the considered view of this Court, continuance of the proceeding against the petitioner would be an abuse of the process of the Court.

8. I would, therefore, allow this Criminal Misc. Case application and quash the criminal proceeding in connection with ICC No.5 of 2003 pending in the court of learned J.M.F.C., Barbil against the Petitioner. The court concerned shall do the needful to close the proceeding in view of the aforesaid order, on receipt of the certified copy of this order

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

(*S.Pujahari*)
Judge

MRS

