

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.873 of 2012

Satyananda Barik

....

Petitioner

Mr.Pabitra Ku.Nayak, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr.A.P.Das, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

06.05.2022

Order No.

05.

1. Heard learned counsel for the petitioner and learned Additional Standing counsel for the State. None represents O.P.No.2.

2. An application under Section 482 of Cr.P.C. is filed by the petitioner to quash the proceeding in I.C.C. Case No. 9 of 2012 pending in the file of learned SDJM, Keonjhar on the grounds inter alia that he was on duty at the relevant point of time discharging the official function and that apart, the allegations in the complaint to be outrightly false which is an afterthought of O.P.No.2, namely, the informant.

3. It is submitted that the court below failed to consider the fact as to the petitioner being on duty which is apparent from the complaint and despite that, passed the order of cognizance on 5th March, 2012. It is contended that regard being had to the totality of the allegations, the court could not have passed the cognizance order and therefore, the proceeding in I.C.C. Case No. 9 of 2012 deserves to be quashed.

4. However, learned counsel for the State submits that such a question with regard to duty of the petitioner and need of sanction under Section 197 of Cr.P.C. could be raised during trial and on being so agitated, the learned court below shall consider it. Further submitted that there is no such material on record to show that the petitioner was on official duty when the alleged overt act was committed and therefore, such a ground for the present is not able to be considered to quash the proceeding pending in I.C.C. Case No. 9 of 2012.

5. Having regard to the above facts and submissions of the learned counsel appearing for the parties, the Court is of the considered view that the question of sanction whether to be required under Section 197 Cr.P.C. and if at all, the allegations made in the complaint by O.P.No.2 to the truthful or otherwise may be examined by the learned court below during trial. As far as the order of cognizance dated 5th March, 2012 is concerned, the learned court below appears to have rightly proceeded considering the statement of the complainant and the materials received in enquiry under Section 202 Cr.P.C. In such view of the matter, the Court finds no reason to intervene and interfere with the proceeding and therefore, is not persuaded to quash it.

6. In the result, the CRLMC stands dismissed.

(R.K. Pattanaik)
Judge

kabita