

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1720 of 2012

Sanjib Kumar Gouda

Petitioner

Ms. Deepali Mohapatra, Advocate

-Versus-

Ajit Kumar Panda

.... Opposite Party

Ms. D. Panda, Advocate

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

13.05.2022

Order
No.

- 04.
1. Heard learned counsel for the petitioner.
 2. Instant case is filed under Section 482 Cr.P.C. challenging the order of cognizance dated 20th August, 2011 passed in I.C.C. Case No.164 of 2011 by the learned S.D.J.M., Sambalpur on the ground that it is bad in law and contrary to the principle of natural justice.
 3. The ground upon which the order of cognizance dated 20th August, 2011 is under challenge is that there was delay in filing the complaint by the opposite party which was unduly condoned by the court below in terms of Section 5 of the Limitation Act without issuing notice to the petitioner.
 4. On the last occasion, Ms. Mohapatra, learned counsel for the petitioner was requested to examine, whether, for the purpose of condoning delay before taking cognizance of the offence under Section 138 N.I. Act, the court below was required to issue notice to

the accused. Today, in course of hearing, Ms. Mohapatra fairly conceded that there is no such provision in the Negotiable Instrument Act, 1881 for issuance of notice before condoning delay.

5. Regard being had to the above submission, the Court is of the view that in absence of any such prohibition, the court below after having entertained the complaint had the power to proceed to condone the delay under Section 5 of the Limitation Act with no requirement to issue any notice to the petitioner and therefore, the ground raised in that regard is untenable. In such view of the matter, there remains nothing for interference and accordingly, it is ordered.

6. In the result, the CRLMC stands dismissed.

(R.K. Pattanaik)
Judge

