

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1893 of 2012

Sriballabh Sahu

...

Petitioner

versus-

Narayana Kumar Nath

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Opposite Party

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
25.04.2022

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 of cognizance dated 16th February, 2012 passed by the learned S.D.J.M., Bhadrak in 1.C.C. No.667 of 2011.
3. Heard the learned counsel for the Petitioner. No one appears on behalf of the Opposite Party in spite of sufficiency of notice.
4. The Petitioner has sought for quashment of the order of cognizance taken against him by the trial court on the ground that he being a police officer has been falsely implicated in this case being actuated with malice, moreso when the act complained was stated to have nexus in discharge of his official duty in absence of sanction under Section 197 of Cr.P.C.
5. As it reveals from the prosecution allegation, the Complainant has lodged reports before the Tihidi Police Station

vide Tihidi P.S. Case Nos.161 and 187 of 2011 against the accused persons and when no action was taken on the same, he along with his wife had been to the police station and ask the Petitioner why he has not taken action against the accused persons. Thereafter, the Petitioner became violent and misbehaved with the Complainant and his wife by using slang languages and extended them threat of dire consequences, so also threatened him to rope in false cases. Furthermore, he also drove out from police station by giving him a push.

6. It is the case of the Petitioner that as he had arrested the Complainant in connection with Tihidi P.S. Case No.246 of 2011, the aforesaid false case has been initiated against him after being release on bail.

7. It is submitted by the learned counsel for the Petitioner that since the Petitioner has forwarded the Complainant in such case, he after released on bail being actuated with malice lodged the aforesaid case against the present Petitioner. Otherwise also the aforesaid allegations having nexus with due discharge of the duty of the Petitioner, he could not have been proceeded with the case without sanction under Section 197 of Cr.P.C.

8. Needles to say that no material is produced to substantiate the contention of the present Petitioner.

9. As it appears, in the complaint case, the trial court after taking note of the materials available on record has taken

cognizance and no material being produced by the learned counsel for the Petitioner to substantiate the case of the Petitioner that he is protected under Section 197 of Cr.P.C., this Court is not inclined to entertain the prayer made in this petition on the ground stated at this stage.

10. Accordingly, the CRLMC stands dismissed.

11. However, liberty is given to the Petitioner to appear before the Court in seisin over the matter within eight weeks hence and makes a motion for bail and in that event, the Court in seisin over the matter shall release him on bail in connection with the aforesaid case on such terms and conditions as it may deem just and proper in view of the law laid down by the Apex Court in the case of ***Satender Kumar Antil v. Central Bureau of Investigation & Anr., reported in 2021 (II) OLR (SC) – 981*** and also allow to raise all the contentions including the question of sanction at the time of framing of charge. In that event, the court concerned shall consider the same in accordance with law without being influenced by this order, taking note of the evidence adduced before charge, as the question of sanction can be raised at any stage of the proceeding, is settled position of law.

(S. Pujahari)
Judge