

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5271 of 2014

Gouri Ballabh Samal & Another

....

Petitioners

Mr. K.K.Bhuyan, Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Mr. Pradip Ku.Rout, AGA

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

25.08.2022

Order No.

04.

1. Heard learned counsel for the petitioners and learned counsel for the State.

2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners for quashing of the order of cognizance under Annexure-1 in I.C.C. Case No. 32 of 2014 passed by the learned S.D.J.M., Jajpur on the grounds stated therein.

3. Perused the copy of the complaint as at Annexure-2.

4. Learned counsel for the petitioners submits that the impugned order under Annexure-1 is not tenable since because the learned court below did not have the jurisdiction to take cognizance of the offence punishable under Section 138 of the N.I. Act by referring to a decision of the Supreme Court in **Dasaratha Rupsingh Rathore Vrs. State of**

Maharastra and Another reported in 2014(5) Supreme 641. However, without expressing anything on merits of the case, the Court is of the view that such question vis-à-vis absence of jurisdiction may be examined during enquiry. In other words, the Court is of the opinion that the petitioners should be granted the liberty to raise said point at the time of framing of charge before the court below since because it is a question of fact and law which shall have to be examined taking into account the facts asserted in the complaint.

5. Accordingly, it is ordered.

6. In the result, the CRLMC stands disposed of with a liberty granted to the petitioner to raise the ground before the learned S.D.J.M., Jajpur in connection with I.C.C. Case No. 32 of 2014 at the time of framing of charge which shall be examined and appropriate order to be passed thereon according to law. It is further directed that until a decision is taken on the point of jurisdiction by the learned S.D.J.M., Jajpur, the interim order passed by this Court dated 30th October, 2014 in Misc. Case No. 3573 of 2014 shall remain in force.

7. The CRLMC stands disposed of in the above terms.

8. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge