

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5584 of 2014

Trupti Ranjan Das

.... **Petitioner**
Mr. P.K. Sahoo, Advocate

-Versus-

State of Odisha and another

.... **Opposite Parties**
Mr. S.N. Das, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

Order
No.

ORDER
22.07.2022

06. 1. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State. None appears for the opposite party No.2.
2. In the instant case, the petitioner challenges the order of cognizance dated 11th May, 2012 passed by the learned Sessions Judge, Berhampur in ICC Case No.93 of 2012 invoking the inherent jurisdiction under Section 482 Cr.P.C. on the ground that an erroneous procedure was followed while taking cognizance of the offence under Section 420 IPC and therefore, impugned order is bad in law and hence, liable to be quashed.
3. Mr. Das, learned ASC submits that the initial statement of the complainant has been recorded under Section 200 Cr.P.C. on 5th May, 2012 which is the previous date to the order of cognizance passed on dated 11th May, 2012. But the learned counsel for the petitioner submits that on a reading of the impugned order dated 11th May, 2012, an affidavit is stated to have been filed purportedly under Section 145

N.I. Act, whereafter, the court below proceeded and then took cognizance of the offence under Section 420 IPC which is out rightly a serious error and thus, the order of cognizance is not sustainable.

4. As it has been rightly pointed out by Mr. Das, the complainant's initial statement was recorded on 5th May, 2012 under Section 200 Cr.P.C. and thereafter, on the next date i.e. on 11th May, 2012, some documents were filed before the court below and on being satisfied that a prima facie case under Section 420 IPC is made out, the impugned order of cognizance was passed. The only ground of challenge is that an affidavit under Section 145 NI Act could not have been entertained by the court concerned. Even without considering the affidavit which is said to have been received by the court below, nonetheless, the complainant was examined and his initial statement under Section 200 Cr.P.C. was recorded and thereafter, some documents including bounced cheques were received from him and then, the court below having arrived at a subjective satisfaction about existence of a prima facie case under Section 420 IPC proceeded to take cognizance of the said offence and issued process to the petitioner, which in the considered view of the Court, does not suffer from any legal infirmity merely for the reason that an affidavit under Section 145 NI Act was received from the complainant.

5. Accordingly, it is ordered.

6. In the result, the CRLMC stands dismissed.

(R.K. Pattanaik)
Judge