

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMC No.3242 of 2010**

***Sudam Charan Sahoo***

• • • •

***Petitioner***

*versus-*

*State of Orissa and another*

• • • •

### *Opposite Parties*

**CORAM: JUSTICE S. PUJAHARI**

## ORDER

**14.03.2022**

**Order**  
**No.**

14.

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 dated 13<sup>th</sup> October, 2010 passed by the learned J.M.F.C., Bhuban in I.C.C. No.40 of 2010.
3. Heard.
4. It is the case of the Petitioner that since the Opposite Party No.2 has forwarded vide Bhuban P.S. Case No.59 of 2010, the aforesaid compliant case was filed being actuated with malice. In such premises, the cognizance is liable to be quashed. However, alternative submission has been advanced that since Section 197 of the CrPC seeks to protect an officer from unnecessary harassment, who is accused of an offence committed while acting or purporting to act in the discharge of his official duties, the Court could not have proceeded with the case against the Petitioner.

5. Learned counsel for the Opposite Party No.2 submits that the aforesaid offences have been committed by the Petitioner has no nexus with discharge of his official duty. The offence committed having no direct or no reasonable connection with the discharge of his official duty, the protection under Section 197 of Cr.P.C. to him is not available on the aforesaid case.

6. Since a proceeding in the absence of sanction under Section 197 of Cr.P.C. can be challenged at any stage of the proceeding, this Court without interfering with the impugned order of cognizance and without expressing any opinion, giving liberty to the Petitioner to raise all the aforesaid contention at the time of framing of charge and in that event, the Court concerned to take note of the law in this regard, pass necessary order on its own merit with regard to charge to be framed or not.

7. However, if the Petitioner is not on bail in the aforesaid case, he shall surrender before the Court in seisin over the matter within eight weeks hence and makes a motion for bail, 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.

**(S. Pujahari)**  
**Judge**