

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2508 of 2012

Arun Kumar Nahak *Petitioner*
versus-
State of Odisha and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

ORDER

20.06.2022

Order
No.

11. 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 criminal proceeding initiated against him in G.R. Case No.394 of 2011, pending in the court of J.M.F.C., Aska as well as F.I.R. under Annexure-1.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party No.1. No one appears for the Opposite Party No.2-Informant.
4. As it appears, in this case, an F.I.R. was lodged against the Petitioner alleging criminal intimidation to the Informant which stated to have arisen out of civil dispute between the parties regarding possession of a piece of land.
5. Learned counsel for the Petitioner submits that due to such animosity with regard to possession of the land and when a civil litigation filed by the Informant against the Petitioner

was dismissed for non-prosecution vide order of the learned Civil Judge (Senior Division), Aska, the aforesaid false allegation has been initiated. Therefore, the allegation having not truth, the police could not have registered the F.I.R. and proceeded against the Petitioner. Hence, the F.I.R. against the Petitioner is liable to be quashed.

6. But the F.I.R. being disclosing about the criminal intimidation, a cognizable offence to have been committed by the Petitioner. In view of the decision of the apex Court in the case *Lalita Kumari v. Government of Uttar Pradesh and others, reported in (2014) 2 SCC 1*, the police is duty bound to register the F.I.R. and investigate into the matter. The truthfulness of such allegation is being investigated by the police in exercise of statutory power.

7. It is also well settled by long course decision of Hon'ble the Supreme Court that exercise power under Section 482 of Cr.P.C. to quash an F.I.R., the High Court would have to proceed entirely on the basis of allegation made in the F.I.R. and it has no jurisdiction to examine the correctness of the allegation at that stage.

8. Therefore, this Court at this stage is unable to accept the submission of the learned counsel for the Petitioner that the allegation in the F.I.R. is nothing but being tissue of falsehood and has been concocted due to previous animosity, hence the

same is liable to be quashed in exercise of power under Section 482 of Cr.P.C. by this Court.

9. Accordingly, the prayer made by the Petitioner is devoid of merit and, as such, the CRLMC stands dismissed.

(S. Pujahari)
Judge

DA

