

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2847 of 2012

*Prabhas Chandra Agrawal &
others*

....

Petitioners

-versus-

State of Odisha

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

04.04.2022

**Order
No.**

09.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioners and learned counsel for the State.
3. This application under Section 482 of Cr.P.C. has been filed by the Petitioners to quash the FIR in connection with Khariar P.S Case No.204 of 2012 corresponding to G.R. Case No.429 of 2012 pending in the court of learned J.M.F.C., Khariar for alleged commission of the offence under Sections 379/34 IPC and Rule 18 of the Orissa Minerals (Prevention of Theft, Smuggling & Illegal Mining & Regulation of Possession, Storage, Trading & Transportation) Rules.
4. In the case of **Surendra Kumar Agarwal v. State of Orissa and others** reported in **2009 (II) OLR 407**, wherein this Court, in paragraphs-16 and 17 have held as follows :-

“16. The aforesaid provisions contained in Section 22 of the MMDR Act and Rule 15 of the 2007 Rules, makes it abundantly clear that no Court shall take cognizance of offence punishable under the said Act or the 2007 Rules made thereunder, except upon a complaint in writing made by the competent authority or person authorized in that behalf by the Central Government or the State Government.

17. The aforesaid provisions of the Act and the 2007 Rules clearly provided that criminal prosecution can be launched only on the basis of a written complaint filed in that regard by the competent authority or the person authorized in that behalf and not otherwise. Hence a reading of the aforesaid provision makes it clear that no FIR can be registered by the police for any offence committed under Section 21 of the MMDR Act and the said provision does not contemplate investigation in a normal way by the police on the basis of an FIR but only on the written complaint to be presented to the concerned Court.”

5. Taking note of the aforesaid authoritative pronouncement of this Court in the case of **Surendra Kumar Agarwal** (supra), this Court allows this Criminal Misc. Case and quashes the FIR in connection with Khariar P.S Case No.204 of 2012 and the corresponding criminal proceeding in G.R. Case No.429 of 2012 pending in the court of learned J.M.F.C., Khariar. Consequently, the prosecution launched against the Petitioners in the said case stands closed. The trial court shall do well to comply with this order on production of the certified copy of the same.

6. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge