

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3766 of 2012

Manoj Kumar Mohanty and others *Petitioners*
versus-
State of Orissa and others *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
25.04.2022

04. 1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioners with a prayer to quash the order of cognizance dated 26th September, 2012 passed by the learned J.M.F.C., Salipur in G.R. Case No.601 of 2012.
3. Heard the learned counsel for the Petitioners and the learned counsel for the State-Opposite Party No.1. No one appears on behalf of the Opposite Parties No.2 to 12-Informants.
4. The Petitioners being prosecuted in the aforesaid case for alleged commission of offences under Sections 294, 506 read with Section 34 of the I.P.C., they have come to this Court challenging the order of cognizance on the ground that the ingredients of the offences having not been disclosed in the F.I.R. as well as the statement of the witnesses so also parties were litigating terms with regard to ingress and egress to the land decided to make a temple by the Petitioners.

5. Learned counsel for the Petitioners substantiated the same drawing the notice of the Court to the fact that what obscene language the Petitioners uttered to the Informants and also the threat given to them which caused alarm to the Informants, was not indicated. Hence, the F.I.R. allegation does not disclose any commission of the offence. Therefore, the police could not have registered the same and investigate into the matter and filed charge sheet against them and the trial court in oblivious to the same having been taken cognizance, their prayer made in this petition deserves to be allowed, moreso when the parties were litigating terms with regard to Petitioners ingress and egress over a Government land obstructed by the Informants when they used to do to construct a temple. In such premises, he submits that the F.I.R. allegation being false and concocted one, the proceeding is liable to be quashed.

6. In response, Mr. S.S. Pradhan, learned counsel appearing for the State-Opposite Party No.1 submits that the ingredients of the offence clearly emerge during the time of investigation and F.I.R. also discloses cognizable offences. As such, police registered the case and investigated the same and also filed the charge sheet. He further submits that Petitioners were prevented by the Opposite Parties No.2 to 12-Informants to construct an Anganwadi Centre therein, but the Petitioners wanted to garb the public land in the name of temple. As such, the dispute arose. But the same, is no ground to discard the prosecution case at this stage, as the truth and veracity of the

same of an allegation is not to be looked into to quash a prosecution in exercise of power under Section 482 of Cr.P.C.

7. It appears that Opposite Parties No.2 to 12 have lodged the report that the Petitioners are abused and extended threat to them. The prosecution is sought to be quashed on the ground that the same is not disclosing the minute details of the ingredients of the offences alleged. As such, the same could not have been registered against the Petitioners and pursuant to the same, no charge sheet could have been filed.

8. It is well settled that the F.I.R. is not be all and all of a case nor it is the encyclopedia of a case. It is not supposed to disclose the minute details of the ingredients of the offence alleged. If the broad allegations in the First Information Report disclose the commission of any cognizable offence, the police is duty bound to register a police case and continue investigation about the truth and veracity of such allegation. Therefore, F.I.R. allegation in this case being broadly disclosing the commission of cognizable offence, the contention advanced in this case for quashment of the proceeding is devoid of merit. Otherwise also after investigation of the case, police found a prima facie case and submitted the charge sheet. Basing on the same, the impugned order of cognizance has been passed and the Petitioners have been proceeded with in the aforesaid case.

9. In the case of ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd., reported in (2000) 3 SCC 269***, the Apex Court have held as follows:-

“Exercise of jurisdiction under the inherent power as envisaged in Section 482 of the Code to have the complaint or the charge-sheet quashed is an exception rather than a rule and the case for quashing at the initial stage must have to be treated as rarest of rare so as not to scuttle the prosecution. With the lodgement of first information report the ball is set to roll and thenceforth the law takes its own course and the investigation ensues in accordance with the provisions of law. The jurisdiction as such is rather limited and restricted and its undue expansion is neither practicable nor warranted. In the event, however, the court on a perusal of the complaint comes to a conclusion that the allegations leveled in the complaint or charge-sheet on the face of it do not constitute or disclose any offence as alleged, there ought not to be any hesitation to rise up to the expectation of the people and deal with the situation as is required under the law. To exercise powers under Section 482 of the Code, the complaint in its entirety will have to be examined on the basis of the allegation made in the complaint and the High Court at that stage has no authority or jurisdiction to go into the matter or examine its correctness. Whatever appears on the face of the complaint shall be taken into consideration without any critical examination of the same. But the offence ought to appear ex facie on the complaint. The truth or falsity of the allegations would not be gone into by the Court at this earliest stage. Whether or not the allegations in the complaint were true is to be decided on the basis of the evidence led at the trial.

10. It is only in cases when the allegations in the complaint do not make out any case against the accused nor do they disclose the ingredients of an offence alleged against the

accused or the allegations are patently absurd and inherently improbable so that no prudent person can ever reach to such a conclusion that there is sufficient ground for proceeding against the accused, the power under Section 482 Cr.P.C. has to be exercised to quash the prosecution, is also the view in the case of *Medchl Chemicals & Pharma (P) Ltd.* (supra). Besides the same, if any statutory bar is there to proceed against the accused persons, the Court shall also not proceed against them.

11. On consideration of the aforesaid facts and submissions made as well as the law laid in the case of *Medchl Chemicals & Pharma (P) Ltd.* (supra), this Court is of the view that the impugned order of cognizance and proceeding against the Petitioners does not require any interference, as the case of the Petitioners is not covered by any of the circumstances as laid down in the case of *Medchl Chemicals & Pharma (P) Ltd.* (supra) for quashment of the prosecution.

12. Accordingly, the CRLMC stands dismissed.

(S. Pujahari)
Judge

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