

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2983 of 2011

Pulin Behera

....

Petitioner

-versus-

State of Orissa and another

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

16.03.2022

Order
No.

07.

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 19th August, 2011 passed by the learned S.D.J.M., Jharsuguda in C.T. Case No.3853 o 2011, taking cognizance of the offence under Section 3(i)(xi) of S.C. & S.T. (PoA) Act.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party No.1. No one appears on behalf of the Opposite Party No.2-Complainant though notice has been made sufficient.
4. The allegation of the prosecution is that when the Petitioner had been to the village of the complainant in discharge of his official duties, the complainant along with others sated to have made a complaint before him about low voltage. However, he did not respond their grievance. When the complainant again raised his grievance, the Petitioner being

provoked stated to have abused the complainant taking the name of his caste in vulgar language. Hence the complaint.

5. Learned counsel for the Petitioner submits that the allegation made against the Petitioner is false and concocted and that has been done being actuated with malice, as the Petitioner lodged a report before the police for misbehaving and manhandling him by one Hemanta Sahu and others and three days after the complaint was made. Otherwise also the materials available on record would go to show that the Petitioner had been to the village of complainant in discharge of his official duties during the course of which he stated to have committed the offence. In such premises, there being no sanction under Section 197 of Code of Criminal Procedure, the Court could not have proceed against the Petitioner by taking cognizance of the offence against him. Otherwise also, Petitioner had lodged an F.I.R. against the Complainant.

6. There is no dispute that the Petitioner is a public servant. He had been to the village in due discharge of his official duty. During the course of the same, the said incident stated to have taken place or in order words, the offence stated to have been committed. The Petitioner had also lodged a report earlier to the complaint alleging that when he had been to village for due discharge of his official duty, he was manhandled and misbehaved by the people there including one Hemanta Sahu and others which relates to the supply of electricity to their village. No doubt, the complainant is not

named in the said F.I.R., but said Hemanta Sahu is a witness to the complaint against the Petitioner. Therefore, possibility of the aforesaid allegations being made against the public servant as a counterblast to the F.I.R. lodged by him against Hemanta Sahu and at his instance is not ruled out. Otherwise also, as it appears, the aforesaid incident stated to have taken when the Petitioner had been to the village-Samasingha for discharge of his official duty and the villagers complained about low voltage in their village. Section 197 of the Code of Criminal Procedure prohibits the Court to take cognizance of any offence committed by public servant which stated to have been committed in due discharge of his official duty or has reasonable connection to his official duty, without sanction from the appropriate Government. Such a protection is given to the public servant against the institution possibly vexatious criminal proceeding for alleging offence have been committed by them while they are acting or purporting to act as a public servant. The policy of the legislature is to adequately protect the public servant to ensure that they are not prosecuted for anything done for them for their official duty without a reasonable cause. As stated earlier the offence purported to have been committed while discharging his official duty. Therefore, the Court should not have even if the materials disclose the aforesaid offences committed, proceeded against the Petitioner in the absence of sanction from the appropriate Government.

7. In view of the aforesaid, this Court is of the view that the proceeding in C.T. Case No.3853 of 2011 against the Petitioner is liable to be quashed.

8. Accordingly, this Criminal Misc. Case is allowed. Consequently, the proceeding in C.T. Case No.3853 of 2011 against the Petitioner stands quashed. The Court in seisin over the matter on receipt of the certified copy of this order or communication from this Court, whichever is earlier, shall do the needful to comply with the same.

(S.Pujahari)
Judge

DA

