

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1831 of 2019

Smt. Pankaj Nalini David and another *Petitioners*
versus-
State of Odisha and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

ORDER

14.02.2022

Order
No.

- 08.
1. This matter is taken up through hybrid mode.
 2. This application under Section 482 of Cr.P.C. filed by the Petitioner with a prayer to quash the order taking cognizance dated 2nd May, 2019 passed by the learned S.D.J.M., Berhampur in I.C.C. No.479 of 2015 as well as the entire proceeding.
 3. Heard the learned counsel for the parties.
 4. As it appears, the Petitioner has sought for quashment of the aforesaid proceeding on the ground for the self-same cause earlier complaint having been dismissed, she has filed a fresh case, but the report reveals that the Petitioner had filed a complaint which was sent under Section 156(3) of Cr.P.C., pursuant to which, G.R. Case No.1035 of 2013 was registered. In the said G.R. Case, a FRT “mistake of fact” report having been submitted, the notice was to the Informant to have her response before acceptance of the report. The Informant having

made a protest petition on the same and the protest case as I.C.C. No. 479 of 2015 was registered and inquiry was conducted. Therefore, it cannot be said that for the self-same cause a case earlier having been disposed of, another case has been filed. As such, the present case is liable to be quashed, is contrary to the record.

5. Accordingly, this petition challenging the proceeding is devoid of merit. Hence, the CRLMC stands dismissed.

6. However, liberty is given to the Petitioner to raise all the contentions at the time of framing of charge inasmuch as since it is a complaint case, a hearing before charge has to be made and in that case, the Petitioner has the scope of cross-examining the witnesses and after cross-examination, the charge has to be framed after hearing the parties.

7. It is made clear that the dismissal of the case shall have no bearing while dealing with the question of framing of charge.

(S. Pujahari)
Judge

DA