

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMC No. 2819 of 2016**

***Subrat Kumar Dash and others*** .... ***Petitioners***

Mr. H.N. Mohapatra, Advocate

*-versus-*

***State of Orissa and another*** .... ***Opposite Parties***

Mr. Janmejaya Katikia, AGA for State

Mr. Devashis Panda, Advocate for OP No.2

**CORAM:  
THE CHIEF JUSTICE**

**ORDER  
25.11.2022**

**Order No.**

08. 1. The grievance of the Petitioners is that by the impugned order dated 18<sup>th</sup> March 2016, the learned JMFC, Tigriria has taken cognizance in C.T. Case No.694 of 2012 against the Petitioners for the offence under Section 376 IPC and that this was impermissible in law since earlier by an order dated 9<sup>th</sup> July 2013, the same J.M.F.C., Tigriria in the same case had already taken cognizance of certain offences against the Petitioners including Sections 498-A/323/497/294/506/406/34 of IPC and Section 4 of the Dowry Prohibition Act. The contention is that once cognizance was taken earlier on 9<sup>th</sup> July 2013, the J.M.F.C., could not again have taken cognizance for the second time by the impugned order.

2. A perusal of the impugned order reveals that on the second occasion cognizance was taken of the offence punishable under Section 376 of IPC on the basis of the evidence that emerged in the course of the trial. The impugned order refers to the circumstance

under which the J.M.F.C. was prima facie of the view that offence under Section 376 of IPC was also made out against the present Petitioners.

4. In that view of the matter, the Court is unable to agree that by the impugned order, the J.M.F.C., was taking cognizance for the same offence for the second time. Clearly this offence is different from the offences in respect of which cognizance was taken by the earlier order dated 9<sup>th</sup> July, 2013.

5. Consequently, the Court does not find any merit in the present petition and it is dismissed as such. The interim order passed earlier stands vacated.

6. It is clarified that this Court has not expressed any view on the merits and it will be open to the Petitioners to raise all the pleas in accordance with law at the appropriate stage in the trial court. It will be open to the parties to request the trial court to expedite the trial.

**(Dr. S. Muralidhar)**  
**Chief Justice**

*S.K. Guin*