

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2008 of 2010

Rabi Narayan Panda *Petitioners*
State of Orissa and another *Opposite Parties*
versus-

CORAM: JUSTICE S. PUJAHARI

ORDER
07.03.2022

Order
No.

15. 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 10th May, 2010 passed by the learned J.M.F.C., Daspalla in I.C.C. Case No.23 of 2010, taking cognizance of the offences under Sections 294 and 323 of the I.P.C.
3. No one appears on behalf of the Opposite Party No.2-Complainant.
4. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party No.1.
5. The allegation made against the Petitioner is that the Petitioner, who is a Range Officer, Daspalla in the district of Nayagarh, when asked the Opposite Party No.2-Complainant to lift some logs for

him in his Tractor, the Opposite Party No.2-Complainant when denied, as the hire charges of earlier are pending, the Petitioner stated to have restrained him and abused him, so also criminally intimidated to him. Hence, the complaint.

6. On the basis of the initial statement and the statement of the witnesses examined under Section 202 of Cr.P.C., cognizance was taken and the Petitioner has been proceeded with. The Petitioner challenges the same in this case. It is the case of the Petitioner that being actuated with malice, the son of Opposite Party No.2-Complainant was earlier booked in a forest offence and the Opposite Party No.2-Complainant threatened by the Petitioner to book him in a proceeding under Section 56 of the Orissa Forest Act was also initiated to confiscate the said vehicle (tractor) of his son, so also for threat extended by the Opposite Party No.2-Complainant, for such action of the Petitioner in discharging of his official duty, Opposite Party No.2 along with his son are booked in Daspalla P.S. Case No.24 of 2010 for alleged commission of offences under Sections 506, 353 read with Section 34 of the I.P.C. initiated in the F.I.R. lodged by the Petitioner. When the aforesaid is the fact and the Tractor bearing No.OR-25-4256 and Trolley bearing No.OR-25-4257 of the son of the Opposite Party No.2-Complainant was seized by the Petitioner in a forest offence, there is no occasion on the part of the Petitioner to ask the Opposite

Party No.2-Complainant subsequently requesting to engage his Tractor for transporting of logs of the forest department and on his denial to commit such offence. Therefore, the allegation being tainted and concocted one, this Court in exercise of power under Section 482 of Cr.P.C. be quashed the aforesaid proceeding.

7. I have perused the materials on record.

8. It appears that the Tractor and Trolley of Samir Kumar Sahoo, who is the son of Opposite Party No.2-Complainant, has been seized for alleged commission of forest offence vide Offence Report No.5 of 2010 dated 27.1.2010 inasmuch as the Tractor was found to be transporting the granite stones from the reserve forests. Said Samir Kumar Sahoo forwarded to the Court. Thereafter, the same has been intimated to the Authorized Officer vide Memo No.73 dates 27.1.2010 for initiation of confiscation proceeding under Section 56 of the Orissa Forest Act against forest produce and the conveyance used in carrying the forest offence. Thereafter, the Petitioner having been extended threat by the said Samir Kumar Sahoo and his father (Opposite Party No.2-Complainant), F.I.R. was lodged before Daspalla Police Station being Daspalla P.S. Case No.24 of 2010 against them alleging offences under Sections 506, 353 read with Section 34 of the I.P.C. Then, the aforesaid allegation has been made against the Petitioner by the

Opposite Party No.2-Complainant. In the facts and circumstances, It is highly improbable that the Petitioner have asked him to use his tractor thereafter to the Opposite Party-Complainant and on his denial committed the offence alleged.

9. Therefore, in the aforesaid facts, this Court has every reason to believe that the complaint was lodged being actuated with malice. As such for the ends of justice and to prevent the abuse of process of law, this Court is of the view that the proceeding against the Petitioner in the complaint case deserves to be quashed.

10. Accordingly, this Court allows this Criminal Misc. Case and set aside the impugned order of cognizance. Consequently, the criminal proceeding in I.C.C. No.23 of 2010 on the file of the learned J.M.F.C., Daspalla against the Petitioner is hereby quashed. The learned J.M.F.C., Daspalla or the Court in seisin over the matter shall on receipt of this order/production of the certified copy of this order, close the proceeding in the aforesaid case in compliance of this order.

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

(S. Pujahari)
Judge