

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4572 of 2011

Sibananda Nayak

....

Petitioner

-versus-

State of Orissa & another

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

22.03.2022

Order
No.

07.

1. This matter is taken up by Hybrid mode.
2. Heard learned counsel for the Petitioner. None appears for Opposite Party No.2.
3. This application under Section 482 Cr.P.C. has been filed by the Petitioner for quashment of the order dated 25.08.2011 passed by the learned S.D.J.M., Bhadrak in ICC Case No.69 of 2011 wherein the learned S.D.J.M has taken cognizance under Sections 341/323/294/353 IPC against him.
4. Mr. Dhal, learned counsel for the Petitioner, submits that the complainant himself assaulted the present Petitioner due to previous grudge for which he was shifted to hospital and admitted there and thereafter a disciplinary proceeding was initiated against the Complainant and to wriggle out the inquiry report of the S.D.P.O and to harass the Petitioner, he had filed

the aforesaid complaint case against him on a false and frivolous allegation. Notice of this Court in this regard is drawn to the inquiry report of the S.D.P.O who made an inquiry on the allegation of the present Petitioner that he was assaulted by the complainant-Prabhuranjan Nayak who had a bad track record in service career. Therefore, he submits that the allegation being actuated with malice, the same is liable to be quashed in view of the law laid down by the apex Court in the case of **State of Haryana and others v. Ch. Bhajan Lal and others** reported in AIR 1992 SC 604.

5. However, this is a case triable by the warrant procedure. Cognizance having been taken basing on the statement of the complainant, so also the inquiry made under Section 202 Cr.P.C. no material having been produced before this Court that there is no sufficient material to proceed against the Petitioner, this Court is not inclined to interfere with the impugned order at this stage.

6. Accordingly this Court disposes of the Criminal Misc. Case giving liberty to the Petitioner to raise all such contentions at the time of framing of charge. If such contention is raised, the court, looking into the facts and circumstances of the case

shall pass necessary order with regard to sufficiency of the materials to proceed against the Petitioner. However, if the Petitioner in this case has not been released on bail, on surrendering the court in seisin over the matter shall do well to release him on bail on such terms and conditions as it may deem just and proper.

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

PKS

