

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4716 of 2011

Raghunath Tada

....

Petitioner

-versus-

Bhuban Mohan Pattnaik

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

24.06.2022

Order
No.

10.

1. This matter is taken up by Hybrid mode.
2. This application under Section 482 Cr.P.C. has been filed by the Petitioner for quashment of the order dated 26.08.2011 passed by the learned S.D.J.M., Koraput in ICC No.33 of 2011 wherein the learned S.D.J.M has taken cognizance under Section 500 IPC against him.
3. It appears that pursuant to the direction of the State Information Commission, the Sub-Collector, Koraput made an inquiry. In the said matter, the Petitioner filed a written statement wherein it is stated “to save the divine institution from the miscreants and their illicit motives, reject the appeal”. As such the defamation case was lodged by the Opposite Party against the Petitioner.
4. This Court in the case of **Bhakta Hari Mohanty vrs. Bishnu Charan Swain**, (CRLMC Nos.1045 and 1647 of 2008

disposed of on 15th November, 2012) in Paragraph-12 have held as follows:

“12. With regard to pleadings and affidavits also, it has been expressed in several decisions in no uncertain terms, that, no action lies against a man for a statement made in a pleadings or affidavit in course of a judicial proceeding, of defamation, even if such statements are alleged to have been made maliciously and without any reasonable or probable cause. However, where affidavits contain scandalous matter, the court has jurisdiction to direct for expunging the same.”

5. In view of the said authoritative decision of this Court, I am of the view that the court could not have taken cognizance for the aforesaid offence on the ground of defamation against the present Petitioner in the said case.

6. I would, therefore, in the aforesaid factual backdrop, taking note of the ratio laid down in the case of **Bhakta Hari Mohanty (supra)**, allow this Criminal Misc. Case and consequently ICC No.33 of 2011 pending in the court of learned S.D.J.M., Kotaput stands quashed. The court concerned shall do the needful to close the proceeding in view of the aforesaid order, on receipt of the certified copy of this order.

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

(S. Pujahari)
Judge