

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1011 of 2013

Mr. M.S. Srinibas *Petitioner*
State of Orissa and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

ORDER

20.06.2022

Order
No.

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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 F.I.R. in Berhampur Town P.S. Case No.244 of 2011 consequently the entire proceeding in G.R. Case No.1490 of 2011, pending in the Court of S.D.J.M., Berhampur.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party No.1.
4. Petitioner has sought for quashment of the aforesaid F.I.R. registered against him for commission of offence under Section 420 of I.P.C. on the ground that no cognizable offence much less under Section 420 of I.P.C. is made out against him from the F.I.R. allegation.
5. The allegation made in the F.I.R. reveals that the Petitioner had taken Rs.6,000/- from the son of the Opposite

Party No.2-Informant under Goat Rearing Scheme which was matured on 26th January, 2005 with return of Rs.48,000/-, but the same having not returned on the date of mature, as such, the F.I.R. was lodged that the Petitioner had cheated the son of the Opposite Party No.2-Informant.

6. The F.I.R. allegedly disclosing a cognizable offence to have been committed by the Petitioner. In view of the decision of the apex Court in the case ***Lalita Kumari v. Government of Uttar Pradesh and others, reported in (2014) 2 SCC 1***, in such case, the police is duty bound to register the F.I.R. and investigate into the matter. The truthfulness of such allegation is being investigated by the police in exercise of statutory power.

7. It is also well settled by line of decisions of Hon'ble the Supreme Court that exercise power under Section 482 of Cr.P.C. to quash an F.I.R., the High Court would have to proceed entirely on the basis of allegation made in the F.I.R. and it has no jurisdiction to examine the correctness of the allegation at that stage to quash the same, if the same discloses a cognizable offence to have been committed. The Petitioner is named therein to have contributed to the same.

8. Therefore, this Court is of the view that the prayer made in this petition in view of such allegation in the F.I.R., is devoid of merit.

9. Accordingly, the CRLMC stands dismissed.

10. However, the Petitioner is at liberty to challenge the order of cognizance or proceeding, if any pending against him, on filing of the final form, if so aggrieved, in the appropriate forum in the appropriate manner.

(S. Pujahari)
Judge

DA

