

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1521 of 2013

Mr. Paul Morris Faustin@, Mr. Paul F Morris ***Petitioner***

Mr. Manoj Kumar Mishra, Senior Advocate
Along with Mr. Tanmay Mishra, Advocate
-versus-

State of Orissa and another ***Opposite Parties***
Mr. Janmejaya Katikia, AGA

**CORAM:
THE CHIEF JUSTICE**

Order No.

ORDER
22.04.2022

10. 1. The present petition seeks the quashing of G.R. Case No. 237 of 2013 arising out of Nirakarpur PS Case No.23 of 2013 pending before the learned S.D.J.M., Khurda. The complaint, on the basis of which the FIR was registered, was on the letter head of MAGNUM SEA FOODS LIMITED and stated that they had been exporting processed prawns to M/s. Sea Wealth Products Inc. in California, USA and that they had not received payment. The residential address of the present Petitioner was indicated in the said letter as Proprietor of the said entity and on that basis the FIR was registered. Despite service of notice, none appears for the Opposite Party No.2- Complainant.
2. Mr. J. Katikia, learned Additional Government Advocate informs the Court that a charge sheet has been filed in that matter.
3. A perusal of the complaint reveals that it is essential about non-payment of dues against supplies made. Clearly, therefore, no criminal offence was made out and it was a pure civil dispute and yet Sections 420 and 406 of IPC have been invoked.

4. Mr. Manoj Kumar Mishra, learned Senior Advocate appearing for the Petitioner, has referred to a decision in *Uma Shankar Gopalika v. State of Bihar (2005) 10 SCC 336* and *Ajay Mitra v. State of M.P. AIR 2003 SCC 1069* to urge that not even a prima facie case has made out against the Petitioner. Moreover, he points out that without making the company a party, the Petitioner has individual capacity could not have been made a party. He further points out that M/s. Sea Wealth Products Inc is in fact a company and not a proprietary concern as wrongly stated in the complaint.

5. It is a settled law that without making the company a party, a representative or a director alone cannot be made a party to a criminal complaint. The decision in *Aneeta Hada v. Godfather Travels and Tours (P) Ltd. (2012) 5 SCC 661* is an authority for this proposition.

6. Indeed, it appears from reading of the complaint that it is a purely civil dispute and has been wrongly made the basis for a registration of an FIR. Consequently, the Court quashes the G.R. Case No. 237 of 2013 arising out of Nirakarpur PS Case No.23 of 2013, pending in the file of learned S.D.J.M., Khurda and all consequential proceedings.

7. The present CRLMC is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

S. Behera