

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2015 of 2019

Pankaj Sahu and Others

....

Petitioners

Mr. Jitendra Samantaray, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.S. Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
18.11.2022

Order No.

04.

1. Heard learned counsel for the respective parties.
2. The challenge is as to the order of cognizance dated 8th December, 2018 passed by the learned S.D.J.M., Berhampur in G.R. Case No.1522 of 2018 arising out of Berhampur Town P.S. Case No.231 of 2018 on the ground that the same is not tenable in law.
3. Perused the copy of the FIR at Annexure-1, chargesheet at Annexure-2 and the impugned order as at Annexure-3.
4. The Court below has taken cognizance of the offenses against the petitioners who are family members. The informant lodged the FIR against the petitioners with regard to the alleged incident, consequent upon which, Berhampur Town P.S. Case No.231 of 2018 under Sections 341, 294, 323, 354, 379, 506 and 34 IPC was registered.
5. Learned counsel for the petitioners submits that one of the petitioners' son was absent at the spot while the incident happened

and petitioner No.1 is the mother of petitioner Nos.2 and 3. It is further submitted that due to a trivial incident, there was a hot exchange of words and considering the facts and circumstances of the case, the proceeding should be quashed in exercise of inherent jurisdiction which is objected to by Mr. Mohapatra on the ground that the contention is purely factual, which can only be examined during the trial.

6. Gone through the contents of the FIR which described the incident in detail and the involvement of the two of the sons of petitioner No.1 and there is also an allegation against petitioner No.1 in the FIR which is of course not specific but then absence of the son of petitioner No.1 and the nature of involvement of other two petitioners in the alleged incident cannot be gone into by this Court at this stage which shall have to be examined by the learned court below. The contention of learned counsel for the petitioner is based entirely on the facts which need to be verified besides the evidence collected during investigation and submitted along with chargesheet. The Court does not find any reason to exercise its inherent jurisdiction to quash the criminal proceeding as has been claimed. However, this Court is of the view that the ground which has been raised herein by the petitioners can be taken up at the time of framing of charge by the court below.

7. With the above conclusion, the CRLMC stands disposed of with liberty granted to the petitioners to raise all the grounds as are available to them in law by making an application before the learned S.D.J.M., Berhampur in G.R. Case No.1522 of 2018 arising out of Berhampur Town P.S. Case No.231 of 2018 and in the event so moved, the court below shall consider the same and pass appropriate orders thereon as per law.

8. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge