

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1165 of 2016

Hemanta Kumar Swain *Petitioner*
-versus-
State of Odisha and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
06.07.2022

05. 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 criminal proceeding in G.R. Case No.1274 of 2015, pending in the Court of S.D.J.M., Jagatsinghpur.
3. Heard.
4. Petitioner has sought for quashment of the aforesaid proceeding on the ground that the allegation has been made against him being actuated with malice.
5. It is submitted that the order of cognizance is a mechanical one, even if no ingredients of the offence under Section 323 of I.P.C. is available, the trial court has taken cognizance.

6. On perusal of the materials available on record, this Court finds that the learned Magistrate when taking cognizance has not bestowed the care and caution.

7. Accordingly, the Criminal Misc. Case is allowed. Consequently, the order of cognizance is set aside and the matter is remitted back to the learned S.D.J.M., Jagatsinghpur to readdress the question of cognizance and pass necessary order within fifteen days of receipt of copy of this order. However, in the said proceeding, the Petitioner shall have no chance of hearing. Petitioner shall produce a copy of this order before the trial court within fifteen days hence.

8. Interim order dated 22nd December, 2016 stands vacated.

9. Order be communicated to the court concerned forthwith.

(S. Pujahari)
Judge

DA