

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No.1340 of 2022

1. Ashutosh Biswal
2. Deepak Kumar
Samantaray
3. Biswapratap @ Bablu
Singh
4. Indrani Singh **Petitioners**

Mr. S.K. Nanda, Advocate

-versus-

State of Odisha **Opp. Party**

Mr. Arupananda Das
Addl. Government Advocate

CORAM:
JUSTICE S.K. SAHOO

ORDER
26.07.2022

Order No.

01.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard Mr. Santosh Kumar Nanda, learned counsel for the petitioners and Mr. Arupananda Das, learned Addl. Government Advocate for the State.

In this application under Articles 226 and 227 of the Constitution of India, the petitioners have prayed to quash the F.I.R. registered as Cantonment P.S. Case No. 97 dated 29.06.2022 under Annexure-4.

Learned counsel for the petitioners submitted that there was an agreement between the parties relating to taking up the house of the informant on rent for business purpose by the petitioners and an amendment to the agreement was sought for

by the son of the informant, for which dissention arose between the parties and that the dispute is basically civil in nature, which has been given a colour of a criminal wrong doing. Learned counsel further submitted that a counter case is also pending against the informant and other members of her family and the present F.I.R. has been instituted against the petitioners with malafide intention in order to harass them and the F.I.R. does not disclose the ingredients of the offences under which it was registered and therefore, the criminal proceeding initiated against the petitioners as per the F.I.R. under Annexure-4 should be quashed.

Learned counsel for the State, on the other hand, opposed the prayer and submitted that since investigation is going on and the recitals of the F.I.R. make out a prima facie for the offences under which the case has been registered, it would not be proper at this stage to quash the F.I.R.

In the case of **State of Haryana -Vrs.- Ch. Bhajan Lal and others reported in AIR 1992 Supreme Court 604**, it has been laid down as follows:

"108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly

defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the

accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

The contention of the learned counsel for the petitioners that there was previous dispute between the parties relating to the amendment of the agreement executed and false case has been foisted, cannot be a ground to quash the F.I.R. unless the criterias laid down in **Bhajan Lal's case** (supra) are satisfied.

The scope of interference with an F.I.R. is much more restricted and ordinarily, this Court is not to interfere with the same unless an exceptional case is made out.

The F.I.R. indicates that when the informant requested the accused persons to leave the house, apprehending disturbances, they collectively abused the informant in filthy languages, threatened the husband and the younger son of the informant with dire consequences and being armed with different deadly weapons, they entered into the house of the informant forcibly and attempted to kill the son of the informant and when the informant opposed to the same, she was pushed for which she fell

down on the ground and when she cried aloud, the accused persons left the spot.

After going through the F.I.R., I find that the offences under which it was registered are made out from its recitals.

The investigation of the case is under progress and Investigating Officer after conclusion of investigation may submit final report if he does not find any material, and may exonerate some of the accused persons named in the F.I.R. from the charge sheet, may find that some of the offences for which the case has been registered are not made out and therefore, at this stage, it would not be proper to interfere particularly when the power to quash the F.I.R. has to be exercised sparingly only in exceptional cases.

Considering the submissions made by the learned counsel for the respective parties and the law laid down by the Hon'ble Supreme Court and after going through the F.I.R., I am not inclined to quash the same.

Accordingly, the CRLMP application being devoid of merits, stands dismissed.

(S.K. Sahoo)
Judge

PKSahoo