

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No.1447 of 2022

Umesh Makhi

....

Petitioner

*Mr. S. Mohapatra,
Advocate*

-versus-

State of Odisha & Others

....

Opposite Parties

*Mr. H.M. Dhal,
Additional Government Advocate*

**CORAM:
JUSTICE BISWAJIT MOHANTY**

ORDER

15.09.2022

Order No.

- 02.
1. Heard Mr. S. Mohapatra, learned Counsel for the Petitioner and Mr. H.M. Dhal, learned Additional Government Advocate.
 2. According to Mr. Mohapatra, the petitioner is aggrieved by the manner in which the investigation is going on in connection with Deogarh P.S. Case No.520 of 2022 registered for commission of offence under Sections-420/409, I.P.C.
 3. Mr. Dhal, learned Additional Government Advocate relying on the decisions of the Supreme Court in the cases of *Sakiri Vasu -vrs- State of U.P. and others* reported in (2008) 2 SCC 409 and *Sudhir Bhaskar Rao Tambe -Vrs- Hemant Yashwant Dhage and Others* reported in (2016) 6 SCC 277, submits that instead of moving the jurisdictional Magistrate under Section 156(3), Cr.P.C., the petitioner has unnecessarily rushed to this Court. He further submits that in the aforesaid decisions, the Supreme Court has made it clear that when after registering the F.I.R., if no proper investigation is made, it would be open to the aggrieved person to

file an application under Section 156(3), Cr.P.C. before the learned jurisdictional Magistrate and if such an application under Section 156(3) is filed before the learned Magistrate, he/she can direct for a proper investigation.

4. In such background, learned counsel for the petitioner submits that liberty may be granted to the petitioner to move the jurisdictional Magistrate under Section 156(3), Cr.P.C.

5. Considering the submissions made and without expressing any opinion on the merits of the case, this Court grants liberty to the petitioner to move the jurisdictional Magistrate under Section 156(3), Cr.P.C. by filing an appropriate application duly supported by an affidavit within a period two weeks. In the event, such an application is filed, the jurisdictional Magistrate would do well to proceed with the same in accordance with law, if there is no other impediment.

6. The CRLMP is accordingly disposed of.

7. Urgent certified copy of this order be granted as per rule.

(Biswajit Mohanty)

Judge

Balaram