

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2423 of 2019

M/s. G.T. Rama Rao & another. Petitioners

*M/s. Manoranjan Mishra,
R.B. Sinha, S.R. Kar, Advocates*

-versus-

M/s. Rajat Minerals Pvt. Ltd. Opposite Party

*M/s. Manas Chand, R.R. Mishra,
K. Mansingh, S.R. Biswal, Advocates*

**CORAM:
JUSTICE S. PUJAHARI**

**ORDER
30.08.2022**

**Order
No.**

06. **1.** This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking for quashing of the orders dated 30.06.2018 and 20.11.2018 passed by the learned J.M.F.C., Barbil in I.C.C. No.44 of 2014, vide which cognizance of offence under Section 138 of the N.I. Act has been taken on condoning the delay in filing of complaint.

2. Heard the learned counsel for the petitioners and perused the impugned orders vis-à-vis the contentions raised by the petitioners. None appeared on behalf of the opposite party-complainant to participate in the hearing.

3. As it appears, the opposite party had filed the complaint initially on 03.09.2014, and on the point of jurisdiction, the learned J.M.F.C., Barbil returned the complaint to the complainant for being filed in the appropriate Court. As it further appears, the complaint was again presented before the same Court, i.e., the Court of J.M.F.C., Barbil on 13.02.2018 by the complainant with a petition under Section 14 of the Limitation Act for condonation of delay, in view of the amendment brought in the N.I. Act by the Ordinance, 2015. With regard to the delay, the opposite party-complainant averred vide his petition under Section 14 of the Limitation Act that since the husband of Tripta Sharma, Director of M/s. Rajat Minerals Pvt. Ltd. (complainant-firm) fell ill, she

had to carry her ailing husband to Specialized Hospitals of India in different States, for which she could not make it possible to file the complaint within time. The learned J.M.F.C., Barbil on perusing the medical documents produced by the complainant and for the reasons recorded vide the impugned order, entertained the complaint that was re-presented on 13.02.2018 and vide the order dated 20.11.2018 he took cognizance of the offence under Section 138 of the N.I. Act on the basis of the complaint petition as well as the initial statement of the complainant filed in shape of affidavit in view of Section 200 of Cr.P.C., and directed the present petitioners (accused persons) to be proceeded against for the said offence.

4. The petitioners challenge the aforesaid orders of the learned J.M.F.C., Barbil mainly on the ground that there being no sufficient or satisfactory explanation from the side of the complainant for the delay in re-presentation of the complaint, the learned J.M.F.C., Barbil ought not to have entertained the

same. It is his further submission that unless the impugned orders are interfered with by this Court, the accused-petitioners shall be put to serious prejudice, inasmuch as the right that has accrued in favour of the petitioners on account of unexplained delay and inaction on the part of the complainant cannot be taken away by the impugned orders.

5. As it appears, the learned J.M.F.C., Barbil has given cogent reasons vide his order dated 30.06.2018 while entertaining the complaint petition which was re-presented on 13.02.2018, for condoning the delay. He has recorded the finding that the medical documents produced by the complainant were indicative of the prolonged medical treatment in different Specialized Hospitals of India. Ultimately, the learned J.M.F.C., Barbil came to opine that the delay on the part of the complainant was on account of the compelling circumstances. Accordingly, the complaint was taken to file and the order of cognizance was passed on 20.11.2018. In the

circumstances, as depicted from record, this Court does not find it to be a fit case to interfere with the impugned orders, in exercise of the power under Section 482 of Cr.P.C.

6. Hence, this CRLMC being found to be bereft of merit stands dismissed.

MRS

