

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2043 of 2022

Bharati Patra and Others

Petitioners

Mr. B.P. Das, Advocate

-Versus-

State of Orissa and Another

.... Opposite Parties

Mr. S. Mishra, ASC

Mr. B.P. Pradha, Advocate for O.P.No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

28.10.2022

Order
No.
05.

1. Heard learned counsel for the petitioners and learned counsel for the State besides learned counsel for opposite party No.2.
2. In the instant case, the challenge is as to the criminal proceeding in G.R. Case No.1605 of 2022 corresponding to Berhampur Town P.S. Case No.192 of 2022 pending before the learned S.D.J.M., Berhampur.
3. Copy of the FIR as at Annexure-1 is perused by the Court. In fact, the informant, namely, opposite party No.2 lodged the FIR, consequent upon which, Berhampur Town P.S. Case No.192 was registered under Sections 467, 468 IPC and other allied offences besides Section 120-B IPC.
4. Learned counsel for the petitioners submits that the dispute is civil in nature, inasmuch as, the sale transaction has been effected by petitioner No.1 in favour of one Rasmi Rekha Mohanty which is clearly evident from Annexure-2 and considering the same, the

criminal proceeding is not maintainable. On the other hand, learned counsel for opposite party No.2 submits that petitioner No.1 is responsible for fraudulently transferring the property in question in favour of his daughter which stood in the name of opposite party No.2. It is also contended that investigation is underway and within no time from the date of lodging of FIR, the present case has been filed by the petitioners.

5. Considering the nature of allegations in the FIR and the fact that the investigation is in progress, the Court is of the view that the petitioners have approached this Court and have filed the present case without waiting for the outcome of the investigation and invoked its jurisdiction when such investigation is barely couple of months old.

6. At this juncture, learned counsel for the petitioners submits that liberty should be granted to the petitioners to challenge the criminal proceeding at the end of the investigation if it results in submission of chargesheet.

7. Having regard to the above facts and submissions of learned counsel for the respective parties, the Court is of the view that the investigation is underway and taking into account the fact that the petitioners are alleged of fraudulently disposing of the property which is claimed to be owned by opposite party No.2, it is not inclined to exercise inherent jurisdiction rather, they should await the result of the investigation.

8. Accordingly, it is ordered.

9. Consequently, CRLMC stands disposed of granting liberty to the petitioners to challenge the proceeding in G.R. Case No.1605 of 2022 corresponding to Berhampur Town P.S. Case No.192 of 2022

pending before the court of learned S.D.J.M., Berhampur in the event, investigation results in submission of chargesheet.

10. Urgent certified copy of this order be granted as per rules..

(R.K. Pattanaik)
Judge

TUDU

