

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2083 of 2022

Hemant Panigrahi.

....

Petitioner

-versus-

Shree Krishna Cottages.

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER
12.08.2022

Order No.

01.

1. This matter is taken up through Hybrid mode.
2. The petitioner in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) has prayed for quashing of the proceeding under Section 138 of the N.I. Act in I.C.C. Case No.27 of 2021, pending on the file of the learned S.D.J.M., Angul.
3. Heard the learned counsel for the petitioner.
4. As it appears, the petitioner has sought for quashment of the aforesaid proceeding on the ground that there was non-compliance of Section 138(b) of the Negotiable Instruments Act as no notice was served on him. But, the document annexed to the petition discloses that a handwritten notice was served on the petitioner and he has acknowledged the same. No doubt, it

is the submission of the learned counsel for the petitioner that the signature of the petitioner in the said notice acknowledging the receipt is false and fabricated. But, the aforesaid is a factual dispute and subject to proof at the time of trial. The same is more so when there is no material before the Court while taking cognizance, in favour of such contention of the learned counsel for the petitioner before the Court concerned. Absolutely, no material is there disputing the receipt of notice and prima-facie material is there to show that there was compliance of Section 138(b) of the N.I. Act and the petitioner has also not produced any material of sterling value, accepting which this Court can discard the prima-facie case of the prosecution. Therefore, the contention raised challenging the order of cognizance as well as the proceeding against the petitioner is without any substance, inasmuch as prima-facie materials are there indicating the commission of offence as well as the involvement of the petitioner in such offence.

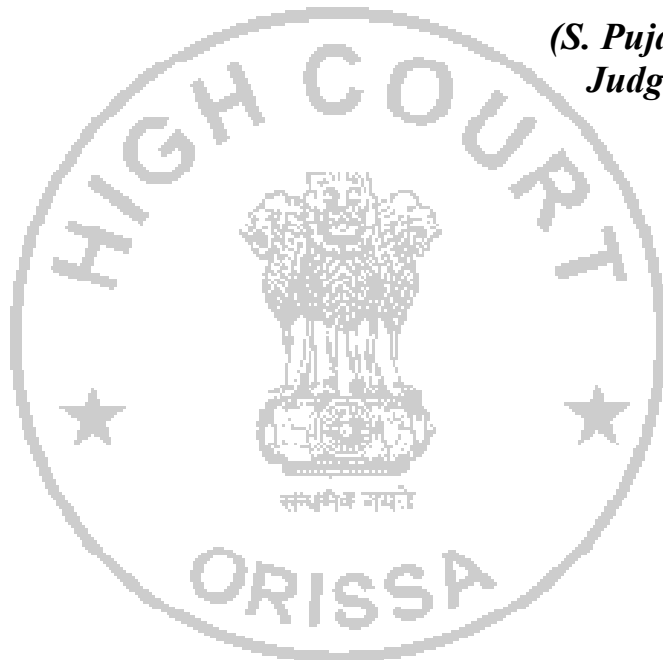
5. Hence, considering the facts and circumstances of the case, so also the submission advanced on behalf of the learned counsel for the petitioner and also the reasons assigned, this Court is not inclined to quash the aforesaid proceeding.

6. Hence, this CRLMC filed for quashing of the aforesaid proceeding on the ground stated being devoid of merit stands dismissed at the stage of admission.

7. However, liberty is given to the petitioner to raise all such defence plea and any other plea available to him at the appropriate stage and in that event, the Court concerned shall address the same in proper perspective vis-à-vis the evidence on record.

8. A copy of this order be communicated to the Court below forthwith.

MRS



(S. Pujahari)
Judge