

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2198 of 2022

Birendra Kumar Padhi and another Petitioners
Mr.Chandan Samantaray, Advocate

-Versus-

State of Odisha and another Opposite Parties
Mr. P.K. Rout, AGA, OP No.1
None for OP No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
16.09.2022

Order No.

01. 1. Heard learned counsel for the petitioners and learned counsel for the State. None appears for opposite party No.2.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners for quashing of the criminal proceeding in C.T. Case No.810 of 2016 arising out of Deogarh P.S. Case No.274 of 2016 pending in the file of learned S.D.J.M., Deogarh on the grounds stated therein.
3. Perused a copy of the order of cognizance as at Annexure-1, the FIR at Annexure-2, chargesheet i.e. Annexure-3 and a copy of the FIR in Deogarh P.S. Case No.273 of 2016 at Annexure-4 as well as copy of the order dated 30th August, 2016 under Annexure-5.
4. Mr. Samantaray, learned counsel for the petitioners submits that considering the allegations in the FIR, no prima facie case is made out against the petitioners but then charge-sheet has been

submitted under Annexure-3. It is further submitted that the dispute between the parties are civil in nature. The petitioners lodged an FIR as a counter blast with false allegations and therefore, under such circumstances, the criminal proceeding in C.T. Case No.810 of 2016 cannot be sustained in the eye of law and has to be quashed.

5. An objection is received from Mr. Rout, learned AGA for the State who submits that on perusal of the FIR and other materials including chargesheet, prima facie case is established vis-a-vis the petitioners and therefore, the criminal proceeding in C.T. Case No.810 of 2016 may not be quashed.

6. On a bare reading of the FIR under Annexure-2, the Court finds that the informant, namely, opposite party No.2 has made allegations of abuse and assault which are alleged to be at the instance of the petitioners. As a matter of fact, after completion of investigation, chargesheet has been filed under Annexure-3.

7. Mr. Samantaray learned counsel for the petitioners submits that since no materials are on record and as the allegation in the FIR are false and frivolous, in view of the judgment of the Apex Court in the case of **State of Haryana and others Vrs. Bhajan Lal and others** reported in 1993 Suppl. (1) SCC 335, the criminal proceeding should be terminated. However, this Court is not persuaded by such contention of the counsel for the petitioners having regard to the materials on record and therefore, concludes that the decision in **Bhajan Lal** (supra) would not apply to the case at hand.

8. In other words, this Court is not inclined to quash the criminal proceeding in C.T. Case No.810 of 2016 as prayed for. Accordingly, it is ordered.

9. While disposing of the CRLMC, this Court grants liberty to the petitioners to raise all such grounds as are available to them in

law at the time of framing of charge before the learned S.D.J.M. Deogarh in C.T. Case No.810 of 2010 corresponding to Deogarh P.S. Case No.274 of 2016 which on being so agitated, the court below shall consider the same and pass appropriate order as per and in accordance with law.

(R.K. Pattanaik)
Judge

U.K.Sahoo

