

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10301 of 2022

Rajanikanta Sahoo

....

Petitioner

Mr. S, Mohapatra, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

02.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. It is submitted by learned counsel for the petitioner that although a formal Darghabazar P.S. case has not been registered but a complaint against the petitioner has already been filed. On the basis of the complaint, the complainant, who is a Supervisor at Big Bazar, has alleged that one of the security guard (the petitioner) had withdrawn salary without performing duty to the tune of Rs.86,685/-. He further submits that on the basis of the allegation made in the F.I.R. at best an offence can be said to have been made out under Section 420, I.P.C., which is triable by the Magistrate.
4. It is submitted by learned counsel for the State that till date, no F.I.R. has been registered by the police and the preliminary investigation is still going on.
5. Considering the facts and accepting the allegations, this Court

is of the opinion that in the event such F.I.R. is registered by the police, the mandatory procedure under Section 41-A of the Code of Criminal Procedure is required to be followed, if the same is applicable to the facts of the case.

6. In such view of the matter, the ABLAPL is not maintainable and accordingly, the same is disposed of with the aforesaid observaton.

(A.K. Mohapatra)
Judge

Jagabandhu

