

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2473 of 2022

Sarat Senapati @ Sarata Senapati and
Others

Petitioners

Mr. A. Pattanaik, Advocate

-Versus-

State of Odisha and Another

.... Opposite Parties

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

30.11.2022

Order
No.

04.

1. Heard learned counsel for the petitioners and learned counsel for the opposite party State.

2. In the present case, challenge is to the criminal proceeding which has been initiated later to the lodging of the report and registration of Baliana P.S. Case No.302 dated 21st September, 2021 corresponding to T.R. Case No.426 of 2021 pending in the file of learned District and Sessions Judge-cum-Special Judge, Bhubaneswar on the ground that it is a counterblast to the FIR lodged by them against the informant and others.

3. A copy of the FIR is at Annexur-1 and the same is perused by the Court. In fact, on the lodging of the FIR, Baliana P.S. Case No.302 of 2021 was registered under Sections 147, 149, 294, 323 and 506 IPC and Section 3(1)(r) 3(1)(s) of the SC & ST (PoA) Act.

4. It is informed to the Court by learned counsel for the petitioners that investigation is still underway.

5. On the ground of case and a counter case filed, the petitioners have approached this Court for quashing of the criminal proceeding. It is submitted that the petitioners are the members of

SHG Group and in connection with an incident, there was disturbance in the village and it was with regard to the lease of a village pond for cultivation of fish which was belong looked after by them but some of the village men intentionally released dirty water into that pond as a result of which fishes died. It is claimed that since FIR was lodged by the petitioners, as a counterblast, the other side lodged the present FIR, consequent upon which, the case has been registered. As to the truthfulness or otherwise of the allegations made against the petitioners, according to the Court, the same is to be examined by the local police since the investigation is still in progress. The Court is also of the view that it would be too premature to interfere and accept the stand one way or the other so claimed and therefore, it cannot be a ground to quash the criminal proceeding. In other words, the Court is not inclined to interfere with the investigation at present and is of the opinion that in the event there is a chargesheet filed against the petitioners, they may claim for discharge before the learned court below.

6. In view of the above conclusion, CRLMC stands disposed of however with the liberty granted in favour of the petitioners to challenge the chargesheet, in the event, the same is filed against them and also claim for discharge during the enquiry at the time of framing of charge before the learned court below and in the event any such application is so moved by them, the learned District and Sessions Judge-cum-Special Judge, Bhubaneswar shall consider the same in connection with T.R. Case No.426 of 2021 corresponding to Baliana P.S. Case No.302 of 2021 and pass appropriate orders thereon as per and in accordance with law.

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

(R.K. Pattanaik)
Judge