

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2483 of 2022

Gyanaranjana Mohanty

.... **Petitioner**

Mr. P.K.Dash, Advocate

-Versus-

State of Odisha & Another

.... **Opposite Parties**

Mr. S.S.Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
21.10.2022

Order No.

- 02.
1. Heard learned counsel for the petitioner, Mr. Mohapatra, learned counsel for the State and learned counsel for opposite party No.2, namely, the informant.
 2. The petitioner has approached this Court challenging the order of cognizance dated 7th June, 2021 passed in C.T. Case No. 709 of 2021 corresponding to Balichandrapur P.S. Case No. 129 of 2021 by the learned JMFC, Chandikhole and quashing of the criminal proceeding as a whole on the grounds stated therein.
 3. Learned counsel for the petitioner submits that the dispute between the parties is civil in nature and for that, opposite party No.2 had approached the court of Commissioner, Land Records & Settlement in R.P. No.860 of 2016 which was dismissed by an order dated 17th January, 2019 and also a civil suit was instituted, wherein,

the matter is subjudice. It is further submitted that being unsuccessful before the court of Commissioner, Land Records & Settlement, opposite party No.2 with false allegations made in the F.I.R. initiated the criminal action and therefore, it has to be quashed in the interest of justice. While contending so, learned counsel for the petitioner refers to the order dated 17th January, 2019 passed in R.P.No. 860 of 2016 as at Annexure-2.

4. Learned counsel for opposite party No.2 on the other hand submits that no doubt there is a dispute before the civil court wherein an order of status quo is passed vis-à-vis the property involved but then, there is a prima facie case made out against the petitioner, who is responsible for illegally removing the bamboo trees from the case land and therefore, the criminal proceeding cannot be brought to an end.

5. Learned counsel for the State submits that if at all there is a challenge from the side of the petitioner, it should be at the time of the framing of charge and as such, there is no case made out for quashing of the proceeding considering the allegations in the F.I.R.

6. No doubt, the parties are in litigating terms and opposite party No.2 did approach the revisional court and the suit being pending before a civil court. It is also not disputed by the learned court for the opposite party No.2. But then looking at the contents of F.I.R., it is made to suggest that for the said dispute, the incident happened on 30th April, 2021, consequent upon which, opposite party No.2 lodged the report with the local police which led to the registration of Balichandrapur P.S. Case No. 129 of 2021.

7. Having regard to the nature of allegations as revealed from the F.I.R. i.e. Annexure-1, the Court is of the view that since the opposite

party No.2 alleged abused and threat administered to him by the petitioner during the incident, the petitioner since removed the bamboo trees illegally despite a status quo order by the civil court, the Court is of the opinion that no any ground has been made out for the purpose of exercising inherent jurisdiction. In any case, the petitioner shall have liberty to claim discharge at the time of framing of charge before the court below. Hence, the Court is not inclined to interfere for quashing of the proceeding as has been prayed for.

8. Accordingly, it is ordered.

9. Consequently, the CRLMC stands disposed of with the liberty granted the petitioner to file an application for discharge before the court below in connection with C.T. Case No. 709 of 2021 corresponding to Balichandrapur P.S. Case No. 129 of 2021, which on being so moved, the court shall consider and pass appropriate order in accordance with law.

10. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge