

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1689 of 2020

Chandan Chandra Sahoo & others Petitioners
Mr. S.K.Lenka, Advocate
Mr. S.K.Sethy, Advocate and Mr. S.Swain, Advocate

-Versus-

State of Odisha & another Opposite Parties
Mr. P.K.Rout, AGA

CORAM:
JUSTICE R.K.PATTANAIK

Order No.

ORDER
21.09.2022

- 06.
1. Learned counsel for the petitioners and learned counsel for the State.
 2. Instant petition under Section 482 of Cr.P.C. is filed for quashing of the criminal proceeding in I.C.C. Case No. 2 of 2020 pending before the court of learned J.M.F.C., Pattamundai on the grounds stated therein.
 3. Learned counsel for the petitioners submits that petitioner No.1 is serving in a Army and he as well as the petitioner No.2 who is the wife of petitioner No.1 were not present at the spot when the alleged occurrence took place and despite a final report submitted by local police, the learned court below receiving a protest petition, entertained the same as a complaint and proceeded further and ultimately passed the order of cognizance in I.C.C. Case No. 2 of 2020 which is not sustainable in law and also the criminal proceeding which is liable to be quashed.
 4. Learned counsel for the State Mr. Praharaj contends that there is prima facie case made out by the complainant whereupon the learned court below appears to have passed the order of cognizance in I.C.C. Case No. 2 of 2020.

5. At this juncture, learned counsel for the petitioner submits that learned court below after taking cognizance of the offences issued NBWA against them and the same are pending execution. The Court is not inclined to examine the factual aspects of the case which can only be gone into and adjudicated upon during enquiry and trial Notwithstanding submission of the final report, since there is a complaint filed and considering the materials on record after receiving initial statement of the complainant in terms of Section 202 Cr.P.C., the learned court below passed the order of cognizance. In such view of the matter, the Court is of the view that there is no ground to interfere and quash the criminal proceeding as such.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands disposed of with however with a direction to the petitioners to surrender before the court of learned J.M.F.C., Pattamundai in I.C.C. Case No. 2 of 2020 arising out of Pattamundai P.S. Case No. 205 of 2019 on or before 17th October, 2022 and in the event of their surrender, the court shall release them on bail with conditions.

8. It is further made clear that the petitioners are at liberty to raise all such grounds at the time of framing of charge and on being so urged shall be considered by the court below as per in accordance with law.

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

(R.K.Pattanaik)
Judge