

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3361 of 2022

Bipin Bihari Das

.... Petitioner
Mr. Bibhu Prasad Das, Advocate

-Versus-

State of Odisha & Others

.... Opposite Parties
Mr. S.S. Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
24.11.2022

I.A. No. 2650 of 2022

Order No.
02.

1. For the reason stated, I.A. stands allowed and filing of the certified copy of the order dated 11th October, 2022 passed in Criminal Misc. Case No. 1193 of 2022 by the learned Executive Magistrate, UPD, Cuttack is hereby dispensed with.
2. The I.A. is disposed of.

(R.K. Pattanaik)
Judge

CRLMC No. 3361 of 2022

03. 1. Heard learned counsel for the petitioner and Mr. learned counsel for the State.

2. Prayer in the present case is for quashing of the criminal proceeding in C.M.C.No. 1193 of 2022 pending in the file of learned ADCP-cum-Executive Magistrate, UPD, Cuttack and also to quash the impugned order dated 11th October, 2022 under Anneuxre-6 whereby the petitioner has been summoned to show cause. The learned counsel for the petitioner submits that in a similar proceeding which had been initialed in the year 2021 in respect of the subject matter, a civil suit is pending before the court of learned Civil Judge, Senior Division, Cuttack in C.S. No. 448 of 2021 but then, once again the other side approached the Executive Magistrate on self-same ground which cannot be sustained in law. While contending so, a copy of the plaint in C.S. No. 448 of 2021 is referred to besides an application in CMC No. 661 of 2021 under Section 144 (2) Cr.P.C.

3. Mr. Mishra, learned counsel for the State submits that the petitioner has been issued with a notice of show cause to appear and file it before the learned Executive Magistrate and therefore, he should appear and respond to it.

4. Without entering into the merits of the case, the Court is of the view that the petitioner should respond to the summons of the learned Executive Magistrate and file a show cause indicating therein all the grounds which have been raised at present including pendency of the civil suit in C.S.(1) No. 448 of 2021. In other words, the court is not inclined to exercise the inherent jurisdiction to quash the proceeding, inasmuch as, the order passed by the learned Executive Magistrate under Anneuxre-6 is not final and awaiting response of the petitioner for filing of the show cause.

5. Accordingly, it is ordered.

6. Consequently, CRLMC stands disposed of with a liberty granted to the petitioner to raise all such grounds before the learned ADCP-cum-Executive Magistrate, UPD, Cuttack in connection with CMC No. 1193 of 2022 by filing the show cause and in the event any such show cause filed by him, the court below shall pass orders as per and in accordance with law.

7. Urgent certified copy be issued as per rules.

(R.K. Pattanaik)
Judge

