

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3600 of 2019

Tapan Kumar Pati.

....

Petitioner

Mr. Debasis Panda, Advocate

-versus-

State of Odisha.

....

Opposite Party

Addl. Standing Counsel – For O.P.-State

**CORAM:
JUSTICE S. PUJAHARI**

**ORDER
17.08.2022**

**Order
No.**

11. **1.** This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) seeking for quashing of the order dated 23.10.2017 passed by the learned S.D.J.M., Bhadrak in G.R. Case No.1530 of 2017 corresponding to Bhadrak Town P.S. Case No.258 of 2017, taking cognizance of offence under Sections 294/506 of IPC against the petitioner.
- 2.** Heard the learned counsel for the petitioner and the learned counsel appearing for the State.

3. As it appears, as on the relevant date the Informant was working as Havildar under the Home Guard Organization and the accused-petitioner was working as Home Guard. It is alleged that although as usually monthly duty chart had been drawn up for the month of August, 2017 as per the order of the Surgent, Home Guard, R.O., Bhadrak. On 01.08.2017 at 8 a.m. when the accused-petitioner having come to the Home Guard Office told the Informant that he would go to the Office of the R.T.O. for duty, the Informant suggested him to take the order of the Surgent, Home Guard. Then on 13.08.2017 at about 10.30 p.m., in front of the V.H.F. Control Room of Town Police Station the accused-petitioner in presence of other Home Guards allegedly, uttered abusive words aiming at the Informant and divulged threat to kill him if he wrote anything against him (accused). On the basis of the written F.I.R. lodged by the Informant, a case was registered at Town Police Station, Bhadrak, and after completion of investigation, police submitted charge-sheet against

the accused for the offence under Sections 294/506 of IPC, and thereupon the learned S.D.J.M., Bhadrak took cognizance of the said offences against him vide the impugned order.

4. It is the submission of the learned counsel for the petitioner that a reading of the F.I.R. itself shows that the accused-petitioner was victimized by the hostile attitude of the Informant – Havildar, and that a false case has been foisted against him out of grudge and animosity. The learned counsel also pointed out the delay of nine days in lodging the F.I.R., to contend that such inordinate delay on the part of the Informant-Havildar raises grave doubt about the veracity of the prosecution set up.

5. Per contra, the learned counsel for the State submits that a prima-facie case being made out against the petitioner, the impugned order warrants no interference by this Court.

6. The stage of taking cognizance is the threshold of a criminal proceeding, and at this stage what all that is necessary for the Court is to find out as to whether or not the FIR and other police papers make out a prima-facie case to proceed against the accused for any offence(s). At this stage, there is no scope for the cognizance taking Court to take note of any probable defence plea of the accused or to test the probative value of the case. Needless to mention that it remains open for the accused to raise his defence plea, if any, at the stage of trial. In the case at hand, on taking note of the nature of accusation as borne out from the F.I.R., it can not be said that there is no prima-facie case under Sections 294/506 of IPC to proceed against the accused-petitioner. Hence, the impugned order calls for no interference.

7. In the result, the CRLMC stands dismissed.

(S.Pujahari)
Judge