

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2558 of 2021

Nilanchal Badatya @ Badatiya ***Petitioner***

-versus-

State of Odisha and another ***Opposite Parties***

CORAM: JUSTICE S.PUJAHARI

ORDER
21.06.2022

Order
No.

- 04.
1. This matter is taken up through hybrid mode.
 2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 9th August, 2021 passed by the learned J.M.F.C., Kabisuryanagar in I.C.C. No.7 of 2021 wherein cognizance has been taken of the offence under Section 138 of N.I. Act.
 3. Heard the learned counsel for the Petitioner. No one appears on behalf of the Opposite Party No2-Complainant.
 4. Learned counsel for the Petitioner drawing the notice of the Court to the discrepancies in the complaint as well as the initial statement, submits to quash the impugned order of cognizance.

5. However, the Court at the stage of taking cognizance is not required to look in the contradictions and discrepancies but to take a prima facie view.

6. In the case of ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd., reported in (2000) 3 SCC 269***, the Apex Court have held as follows:-

“Exercise of jurisdiction under the inherent power as envisaged in Section 482 of the Code to have the complaint or the charge-sheet quashed is an exception rather than a rule and the case for quashing at the initial stage must have to be treated as rarest of rare so as not to scuttle the prosecution. With the lodgement of first information report the ball is set to roll and thenceforth the law takes its own course and the investigation ensues in accordance with the provisions of law. The jurisdiction as such is rather limited and restricted and its undue expansion is neither practicable nor warranted. In the event, however, the court on a perusal of the complaint comes to a conclusion that the allegations leveled in the complaint or charge-sheet on the face of it do not constitute or disclose any offence as alleged, there ought not to be any hesitation to rise up to the expectation of the people and deal with the situation as is required under the law. To exercise powers under Section 482 of the Code, the complaint in its entirety will have to be examined on the basis of the allegation made in the complaint and the High Court at that stage has no authority or jurisdiction to go into the matter or examine its correctness. Whatever appears on the face of the complaint shall be taken into consideration without any critical examination of the same. But the offence ought to appear ex facie on the complaint. The truth or falsity of the allegations would not be gone into by the Court at this earliest stage. Whether or not the allegations in the complaint were true is to be decided on the basis of the evidence led at the trial.

7. It is only in cases when the allegations in the complaint do not make out any case against the accused nor do they

disclose the ingredients of an offence alleged against the accused or the allegations are patently absurd and inherently improbable so that no prudent person can ever reach to such a conclusion that there is sufficient ground for proceeding against the accused, the power under Section 482 Cr.P.C. has to be exercised to quash the prosecution, is also the view in the case of *Medchl Chemicals & Pharma (P) Ltd.* (supra). Besides the same, if any statutory bar is there to proceed against the accused persons, the Court shall also not proceed against them.

8. Since the case of the Petitioner is not covered by any of the circumstances as laid down in the case of *Medchl Chemicals & Pharma (P) Ltd.* (supra) to challenge the order of cognizance and the proceeding on the ground of the discrepancies on the version of the Opposite Party No.2-Complainant at different stages, this Court is of view that the prayer made by the Petitioner is devoid of merit.

9. Accordingly, the CRLMC stands dismissed.

(S.Pujahari)
Judge