

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 25 of 2023

Gyanada Prasanna Sahoo

....

Petitioner

Mr Bichitra Narayan Satapathy, Advocate

-Versus-

State of Odisha and Another

....

Opposite Parties

Mr. T.K. Praharaj, SC, OP No.1

None for OP No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

24.01.2023

Order No.

01.

1. Heard learned counsel for the respective parties.
2. Prayer in the present case is for quashing of the criminal proceeding in G.R. Case No.420 of 2021 arising out of Ersama P.S. Case No.89 of 2021 pending in the court of learned Civil Judge-cum-J.M.F.C., Ersama on the ground of compromise.
3. Perused the copy of the FIR as at Annexure-1 which was registered as Ersama P.S. Case No.89 of 2021 under Sections 419, 420, 379 and 34 IPC read with Sections 66(C) and 66(D) of the Information Technology Act and at present, the trial in G.R. Case No.420 of 2021 is in progress.
4. Mr. Satapathy, learned counsel for the petitioner submits that the informant has not supported the case of the prosecution as both of them have been examined in the meantime and discharged and it was on account of a compromise between the parties and considering the same, no fruitful purpose would be served to continue with the proceeding pending against the petitioner and

therefore, it should be quashed in exercise of inherent jurisdiction of this Court under Section 482 Cr.P.C. While claiming so, Mr.Satapathy, learned counsel for the petitioner refers to the depositions of the informant and the other witness examined from the side of the prosecution.

5. Mr. Praharaj, learned counsel for the State on the other hand submits that since the trial has commenced in the meantime, inherent jurisdiction should not be exercised to quash the proceeding notwithstanding the evidence of the witnesses.

6. The Court perused the depositions of both the witnesses, namely, P.Ws.1 and 2 and it is found that they have not supported the prosecution case and claimed that the matter was settled out of the Court. P.W.1 disclosed that she received an amount of Rs.3 lac under a zimanama while being examined by the prosecution. In cross-examination, P.W.1 deposed that she does not have any grievance against the accused. Similar is the evidence of P.W.2. The prosecution has not declared P.Ws.1 and 2 hostile and did not examine them under Section 154 of Indian Evidence Act. The further evidence is pending before the learned court below. The Court perused the FIR, a copy of which is at Annexure-1 and it is noticed that petitioner is a contractual staff of a bank and committed the alleged mischief, as a result of which, the alleged amount from the informant's account was siphoned off.

7. Considering the nature of allegations notwithstanding the hostile evidence of the informant and the other witnesses, the Court is not inclined to exercise its inherent jurisdiction to quash the proceeding. However, the Court is of the view that a direction should be issued to the learned court below to examine the rest of the prosecution witnesses and to complete the trial as soon as possible.

8. Accordingly, it is ordered.

9. In the result, the CRLMC stands disposed of with a direction to the learned Civil Judge-cum-J.M.F.C., Ersama to expedite the hearing and conclude the trial in G.R. Case No.420 of 2021 arising out of Ersama P.S. Case No.89 of 2021 at the earliest.
10. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

