
(2006) 08 OHC CK 0052
In the Orissa High Court
Case No : Criminal M.C. No. 2934 of 2005

Braja Kishore Mohanty

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 14-08-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 156, 157, 173, 482

Citation : (2006) CLT 1124 (Suppl Crl)

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : S. Dash, for the Appellant;

Judgement

A.S. Naidu, J.—Invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, 1973 the Petitioner prays for issuance of direction to drop the investigation in connection with Lalbag P.S. Case No. 220 of 2005 corresponding to G.R. Case No. 1656 of 2005 on the file of the SDJM (S), Cuttack initiated on the basis of an FIR lodged by opposite party No. 2, the Chief Manager (PBD), SBI Main branch, Cuttack.

2. In the aforesaid FIR it was alleged that the Petitioner has an SB A/c. in the SBI Main Branch, Cuttack. He had issued a cheque on 16.8.2003 in favour of one Deepak Mohanty, one of his relations, for a sum of Rs. 40,400.00 which was encashed. Thereafter the Petitioner again issued another cheque on 5.9.2003 for a sum of Rs. 20,000.00 in the name of his son and the same having been dishonoured by the Bank as sufficient funds were not available in the account of the Petitioner, the Petitioner lodged a complaint with the concerned AGM of the Bank alleging that the cheque stated to have been issued in favour of Deepak Mohanty was a forged one, and requesting the AGM to enquire into the matter. It was alleged that on the basis of the aforesaid complaint by the Petitioner an enquiry was conducted and it was revealed that the Petitioner in connivance with said Deepak Mohanty had cheated the Bank by withdrawing a sum of Rs. 40,400.00 on 16.8.2003. Consequently the aforesaid FIR was lodged with police

on 27.10.2003.

3. It is submitted that Lalbag police is still investigating into the case. Dr. Dash, Learned Counsel for the Petitioner, forcefully submitted that in fact the Petitioner had never issued any cheque for Rs. 40,400.00. He had complained before the Ombudsman who conducted an enquiry into the matter and arrived at the conclusion that the cheque in question was not issued by the Petitioner. It is submitted by Dr. Dash that subsequently the Bank had agreed to reimburse the sum of Rs. 40,400.00 to the Petitioner and, as such, it is a fit case where the investigation into the aforesaid criminal case should be directed to be dropped.

4. Section 154, Code of Criminal Procedure. speaks of an information to the OIC of the police station relating to commission of any cognizable offence. Section 156 stipulates that the OIC of a police station even without the order of a Magistrate shall investigate into any cognizable offence. Section 157 stipulates the procedure for investigation and Section 173 stipulates the procedure to be adopted by police on completion of investigation. Law is well settled that the investigating agency in course of investigation shall consider all the materials and only after being satisfied that the allegation levelled in the FIR are correct and some cognizable offence appears to have been committed, shall submit charge-sheet in the case, or in the alternative, shall submit a final report. In the case at hand, admittedly the investigation is not yet over. Therefore the submissions made by the Learned Counsel for the Petitioner are available to be looked into by the investigating agency. Dropping the investigation at the very threshold may hamper the administration of criminal justice. It also appears that several disputed questions of fact are involved in the matter which cannot be gone into by this Court at this juncture.

5. In view of the aforesaid discussion/observation this Court is not inclined to grant the relief sought by the Petitioner and disposes of this CRLMC granting liberty to the Petitioner to produce all the relevant documents before the investigating agency and directing the said agency to take note of the same, complete the investigation and submit final form in consonance with law.

Crl. Misc. Case disposed of.