
(2017) 12 OHC CK 0050

In the Orissa High Court

Case No : 524 of 2005

Chandra Kishore Mohanty

APPELLANT

Vs

State of Orissa & Anr.

RESPONDENT

Date of Decision : 04-12-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 420](#),
[Section 34](#), [17](#)

Citation : (2017) 12 OHC CK 0050

Hon'ble Judges : S.K. Sahoo

Bench : SINGLE BENCH

Advocate : B.S. Dasparida, Priyabrata Tripathy

Final Decision : Dismissed

Judgement

1. In this application under section 482 Cr.P.C., the petitioner Chandra Kishore Mohanty has prayed to quash the proceeding in G.R. Case No. 134 of 2005 pending in the Court of learned S.D.J.M., Bhadrak.

2. It appears that the first information report was lodged on 20.1.2005 by one Shyama Singh (opp. party no.2) before the Bhadrak Rural Police Station, on the basis of which Bhadrak Rural P.S. Case No. 21 of 2005 was registered under sections 420/506/34 of the Indian Penal Code. The informant has stated in the first information report that he was working in the F.C.I., godown of Ranital as a labourer and took voluntarily retirement and towards his V.R.S. benefit as well as gratuity, two cheques were issued by F.C.I. authorities in his name which were sent to the F.C.I. Office, Ranital. Getting such message, when the informant came to the F.C.I. office to receive the cheques, he found that the petitioner who was working there as Sardar had forged his L.T.I. in the acquaintance slip and also shown himself as a witness and took away the two cheques, one amounting to Rs.62,002/- and the other amounting to Rs.2,69,016/-. It is further mentioned in

the first information report that since the informant was an illiterate person, the petitioner and one Akhya Kumar Mohapatra came in a car to his house and asked him to come to Bhadrak to receive the V.R.S. amount and accordingly, he accompanied them in the car and on the way, they offered liquor to him for which he slept inside the car and when he woke up, he found that the car had already arrived at Cuttack and coaccused Akhya Ku. Mohapatra threatened him for which he put some L.T.Is. in different papers and thereafter he was left in his house at Bhadrak and was threatened not to disclose the incident before anybody.

3. It is stated by the learned counsel for the petitioner that in the meantime, charge sheet has already been filed on 25.03.2006 under sections 420/506/34 of the Indian Penal Code and section 3 of the S.C. & S.T.(PA) Act. He has produced the copy of the charge sheet. In the charge sheet, it is mentioned that the informant was working in the F.C.I. and he got Rs.3,42,212/- in two cheques but the petitioner and Akhya Ku. Mohapatra who were the leaders of the informant, took the cheques and the informant took him to Cuttack and deposited the charges in the Punjab National Bank in the name of the informant and withdrew Rs.3,00,000/- (rupees three lakhs only) on the next day i.e. on 29.10.2004 keeping the balance of Rs. 42,212/-. The accused persons did not give the money to the informant and when the informant made hullah, the petitioner returned Rs. 91,000/- in the meeting and later on when the informant made further hullah, the petitioner and Akhay Ku. Mohapatra deposited Rs.3 lakhs in the name of the informant on 28.12.2004. It was further mentioned that during withdrawal, the accused persons gave Rs.1000/- to Shyama Singh and they have not given Rs.8000/- to Shyama Singh and misappropriated the amount. The Supdt. of Police, Bhadrak supervised this case and opined that it is a true case under sections 420/506/34 of the Indian Penal Code and 3 of S.C. & S.T. (PA) Act against the petitioner as well as the Akhya Kumar Mohapatra.

4. Learned counsel for the petitioner contended that the accusations leveled against the petitioner are false and fabricated and the money of the informant was duly deposited in the Punjab National Bank, Cuttack on different dates by the authorities and the same has also been withdrawn by the informant. He further submitted that the matter has been amicably settled between the parties and the continuance of the proceeding would be an abuse of process and therefore, the proceeding should be quashed. He relied upon the decision in case of State of Haryana -Vrs.- Bhajanlal reported in A.I.R. 1992 SC 604.

5. The informant was made as opp. party no.2 in this case and notice was issued to him. In spite of sufficiency of notice, nobody has entered appearance on behalf of the informant.

6. Learned counsel for the State contended that when on a plain reading of the first information report, the ingredients of the offence is prima facie made out and when the informant has not come up with any affidavit regarding amicable settlement of dispute between the parties, at this stage it would not be proper to quash the proceeding in G.R. Case No. 134 of 2005.

7. Considering the submissions made by the learned counsels for the respective parties, since charge sheet has already been filed and prima facie ingredients of the offences are made out and cognizance of offences has been taken and when there is every scope on the part of the petitioner and the opp. party no.2 to make appropriate application before the Court below if matter is compromised between the parties, I am not inclined to invoke my inherent power under section 482 Cr.P.C. to quash the proceeding.

8. Accordingly, the CRLMC application being devoid of merit stands dismissed.