
(2019) 12 OHC CK 0016
In the Orissa High Court
Case No : CRLMC No. 1831 Of 2017

Sunita Panigrahi	Vs	APPELLANT
State Of Orissa & Another		RESPONDENT

Date of Decision : 09-12-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 109, 120B, 420, 468, 498(A)

Citation : (2019) 12 OHC CK 0016

Hon'ble Judges : Dr. A. K. Mishra, J

Bench : Single Bench

Advocate : Laxman Pradhan, D.P. Das, R.K. Mishra

Final Decision : Dismissed

Judgement

Dr. A. K. Mishra, J

1. Heard learned counsel for the petitioner and the learned Additional Standing Counsel.

2. In this proceeding under section 482, Cr.P.C., prayer is made to quash the order dated 5.4.2017 passed in G.R. Case No.86 of 2012 corresponding

to Berhampur Town P.S. Case No.13 of 2012 taking cognizance for offence under sections 468/420/120(B)/109 of IPC. Learned S.D.J.M.,

Berhampur has found sufficient ground to proceed against six accused persons including the present petitioner.

3. Learned counsel for the petitioner submits that in the charge-sheet, while describing the brief facts of the case, the identity of the accused Sunita

Panigrahi is stated to be the wife of Rakesh Padhi while she claims to be the wife of Jitun Kumar Padhi against whom a proceeding under section

498(A) IPC was initiated vide G.R. Case No.7 of 2015.

The whole contention of the proceeding is that, she was not the same person whose identity is described in the charge-sheet.

4. Learned Additional Standing Counsel submits that the identity has been given in the particulars of the accused in the charge-sheet where this

accused Sunita Panigrahi is stated to be the daughter of Subash Chandra Panigrahi. She has also availed the bail order from this court during

investigation and, subsequently, released on bail by the Investigating Officer.

5. From the above facts, it is clear that in this nature of case the dispute of identity is a defence plea. It can be urged during trial. The same is not to

be done on meticulous analysis of the materials to quash the cognizance order.

In the judgment reported in (2019) 74 OCR (SC) 131; *Sau. Kamal Shivaji Pokarnekar vs The State of Maharashtra* it is held that:-

“6. Defences that may be available, or facts/aspects which when established during the trial, may lead to acquittal, are not grounds for quashing

the complaint at the threshold. At that stage, the only question relevant is whether the averments in the complaint spell out the ingredients of a criminal

offence or not.”

6. The F.I.R. having disclosed prima facie offence alleged, the principles enumerated in the decision reported in AIR 1992 SC 604: *State of Haryana*

and *Ors. v. Ch. Bhajan Lal and others*, to quash the proceeding, are not attracted.

In that view of the matter, I am not inclined to quash the cognizance order dated 5.4.2017 passed in G.R. Case No.86 of 2012 corresponding to

Berhampur Town P.S. Case No.13 of 2012 by the S.D.J.M., Chhatrapur.

Accordingly, the CRLMC stands dismissed.