

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1719 of 2011

Smt. Jharana Pagal ***Petitioner***
versus-
State of Orissa and another ***Opposite Parties***

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
21.03.2022

- 05.
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 24th June, 2010 passed by the learned J.M.F.C., Barbil in 2(b)C.C. No.16 of 2010, taking cognizance of the offence under Section 27(3)(b)(c) and Section 56 of O.F. Act, 1972.
 3. Heard.
 4. The case of the Petitioner is that she was the owner of the vehicle in question, but at the time of commission of the offence, the same having been stolen, the prosecution of him in this case as owner of the vehicle in question is misconceived. Accordingly, the same is liable to be dismissed.
 5. But, on perusal of the complaint petition, it would go to show that the vehicle in question of the Petitioner was seized while loaded with iron ore, but the driver and others ran away to the forest leaving behind the vehicle loaded with iron ores. As such, and U.D. case was registered, but when it came to the knowledge that the Petitioner was a registered owner, she was noticed in that case. However, she took the

plea that her vehicle was stolen by some miscreants during 19/20th November, 2009 and involved in the aforesaid case and, as such, she was not involved in any manner. On verification, such plea was not substantiated in any manner.

6. In such premises, the Petitioner having been prosecuted for commission of offence under Section 27(3)(b) & (c) and proceeding under Section 56 of the Orissa Forest Act was initiated against the vehicle as well as the forest produce seized. The Court at the stage of cognizance is required to look prima facie whether any offence was committed and whether the person against whom the proceeding was initiated has any role played in the commission of the offence. If the answer to the same is in affirmative and there is no statutory bar to proceed in the matter, the cognizance taken and proceeding cannot be quashed taking note of defence version in exercise of power under Section 482 of Cr.P.C. unless the material produce by the accused Petitioner is of sterling value, which militate against his prosecution. The same is not so in this case.

7. Hence, the prayer made in this petition for quashment of the cognizance is devoid of merit.

8. Accordingly, the CRLMC stands dismissed.

9. It is made clear that the aforesaid observation of this Court shall have no bearing at the time of trial inasmuch as at this stage, the Court has to scan the evidence and rendered the judgment on the same.

(S. Pujahari)
Judge