

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 1436 of 2008

Ramachandra Nayak & Another **Petitioner**
Mr. D. Nayak, Sr. Advocate

- Versus -

State of Orissa **Opposite Party**
Mr. S.K. Mishra, Addl. Standing Counsel

CORAM:
JUSTICE SASHIKANTA MISHRA

ORDER
29.07.2022

Order No.
8.

1. This matter is taken up through hybrid mode.
2. The petitioner has challenged the order dated 10.04.2008 passed by learned S.D.J.M., Udala in G.R. Case No. 346 of 2007, whereby cognizance was taken for the offence under Sections 420/471/34 of I.P.C.
3. It is submitted by Mr. D. Nayak, learned Sr. Counsel that the impugned order passed by learned court below is entirely illegal and without consideration of the facts of the case in the proper perspective. It is further submitted that the petitioner having already handed over the Tractor in question to the informant no further cause of action survives and therefore, a prima facie case does not exist so as to take cognizance of the alleged offences.
4. Undoubtedly, at the time of taking cognizance the Court is not required to make a roving enquiry or to delve deep into the materials to see whether the accused is actually guilty of the alleged offences or not.
5. Since these are matters that can be agitated before the court below by filing appropriate application for discharge, I am not inclined to interfere with the matter at this stage. The CRLREV is

therefore, disposed of granting liberty to the petitioner to file an application for discharge on all available grounds in accordance with law. If such an application is filed, the trial court shall do well to dispose of the same in accordance with law within a period of two weeks from the date of communication of a copy of this order or on production of certified copy thereof by the petitioner. It is made clear that this Court has not expressed any opinion on the merits of the case.

(Sashikanta Mishra)
Judge

A.K. Rana

