

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2983 of 2012

Sri Sachidananda Sahoo ***Petitioner***

-versus-

State of Odisha ***Opposite Party***

CORAM: JUSTICE S. PUJAHARI

ORDER

22.07.2022

Order

No.

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 13th June, 2012 passed by the learned S.D.J.M.(S), Cuttack in G.R. Case No.966 of 2002 wherein cognizance of the offences under Sections 147/148/294/341/342/336/337/307/506/149 of the I.P.C. has been taken against him.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party.
4. From the prosecution allegation, it reveals that some of the advocates of the Cuttack Civil Court Bar Association formed an unlawful assembly stated to have abused the Collector, Cuttack and other officers and also forcibly took one staff of the Collector Office to the Court of S.D.J.M. and also

put him there, so also on account of their assault, one was hospitalized in a critical condition.

5. Investigation was conducted and after completion of investigation charge sheet has been filed against 12 advocates, one of them was the Petitioner.

6. The Petitioner in person, an advocate, submits that though he is completely innocent and he has nothing to do with the aforesaid act of the Criminal Court Bar Association and was neither part of the mob nor present there near the spot, no witness also specifically stated that the Petitioner was present at the spot, but the I.O. having filed charge sheet against him and the learned S.D.J.M.(S), Cuttack while taking cognizance proceed against him mechanically, hence the prayer made be allowed.

7. Learned counsel for the State-Opposite Party has obtain a report as per instruction of this Court from the IIC, Lalbag Police Station, who going through the record, submits that the Petitioner has not been named specifically by anyone, but the I.O. has named 12 persons including the Petitioner, who is an advocate, was the member of an unlawful assembly then.

8. Since the witnesses have not stated specifically that the Petitioner was present at the spot, even if he was a practising advocate, without taking note of his defence version that he was not present, this Court is of the view that prima facie indictment

of the Petitioner in the said case being member of an unlawful assembly is not emerged. As such, the Court could not have mechanically accepted the opinion formed by the police in the report under Section 173 of Cr.P.C. arraying the Petitioner as an accused.

9. Accordingly, this Criminal Misc. Case is allowed. Consequently, the impugned order as well as the prosecution qua against the Petitioner in G.R. Case No.966 of 2002 stands quashed. The Court in seisin over the matter on receipt of the certified copy of this order, shall do the needful to comply with the same.

(S. Pujahari)
Judge

DA

