

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.132 of 2011

Phanibusan @ Phani Mandal and others *Petitioners*
versus-
State of Odisha and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
25.02.2022

10. 1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioners with a prayer to quash the criminal proceeding bearing C.T. No.36 of 2010, arising out of I.C.C. No.4 of 2009, pending in the Court of Additional Sessions Judge,-cum-Special Judge, Nabarangpur.
3. Heard the learned counsel for the Petitioners and the learned counsel for the State-Opposite Party No.1. No one appears on behalf of the Opposite Party No.2.
4. As it appears, Petitioners in this case has challenged entire proceeding wherein charge has already been framed.
5. Learned counsel for the Petitioners submits that the ingredients of the offence being not made out in the complaint petition as well as in the statement of the witnesses and no material being there to show that accused persons neither

belongs to the scheduled caste nor scheduled tribe community and also there being no happening in the view of the public and the proceeding having been initiated being actuated with malice, as such, the same is liable to be quashed. Furthermore, to fortify his submission that the aforesaid is concocted and false allegation, drawn the notice of the Court that there was delay in lodging the complaint in this case, i.e., three months after the occurrence.

6. On perusal of the materials on record as well as the order of cognizance, it appears that the Court being alive to the ingredients of the offences and going through the materials available on record has taken cognizance. Charge has already been framed in the meanwhile.

7. On consideration of the materials, hearing the parties and sifting the materials, the trial court has already framed the charge. Delay in lodging the report is not the ground to quash the proceeding. Therefore, it is fallacious to say that without any ingredients of offence alleged cognizance in this case has been taken and the proceeding has been initiated and as there was delay in lodging the report, the same is liable to be quashed, is without any substance.

8. However, if any delay in lodging the report is there, the same may be taken as a ground during the course of argument to challenge the veracity of the prosecution case, and in that event, the Court shall take into consideration of the same with

the available evidence in proper perspective while rendering the judgment.

9. With the aforesaid observation, this CRLMC stands dismissed.

(S. Pujahari)
Judge

DA

