

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3402 of 2015

Susanta Pradhan @ Susanta Kumar
Pradhan

.... Petitioner

Mr. J.K. Panda, Advocate

-Versus-

State of Orissa

.... Opposite Party
Mr. T.K.Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
13.10.2022

Order No.

08.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashing of the order of cognizance dated 28th December, 2013 passed by the learned Sessions Judge-cum-Special Judge, Sonapur in Special G.R. Case No.03 of 2013 corresponding to Binika P.S. Case No.89 of 2013 on the grounds stated therein.
3. Perused the copy of the order of cognizance dated 28th December, 2013.
4. It is submitted by learned counsel for the petitioner that there is no material on record except the confessional statement of a co-accused to involve the petitioner and on that basis, he cannot be criminally prosecuted in view of the decision of the Apex Court in the case of **Tofan Singh Vrs. The State of Tamil Nadu** reported in (2013) 16 SCC 31. It is further submitted that at least liberty should be granted to the petitioner to raise such round at the time of framing of charge. In other words Mr. Panda does not press the

matter on merit and submits that the petitioner should be allowed to raise the above ground before the learned court below while seeking discharge from the offence under Section 20(b)(ii)(c) of NDPS Act.

5. Considering the limited prayer made, this Court disposes of the CRLMC with liberty to the petitioner to raise the ground as above seeking discharge before the court below in connection with Special G.R. Case No.03 of 2013 and in the event, it is so urged, the court below shall do well and pass appropriate order in accordance with law considering the submission as to the applicability of the Apex Court's decision in **Tofan Singh** (supra).

6. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

