

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4812 of 2015

Santosh @ Santa Jena

....

Petitioner

Mr. Basudev Pujari, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. T.K. Praharaj, S.C.

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

20.10.2022

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 challenging the order of cognizance dated 1st May, 2015 passed by the learned J.M.F.C., Kodala in 2(a) C.C. No.10 of 2014 whereby the court below has taken cognizance of the offence against the petitioner under Section 47(a) of Bihar & Orissa Excise Act.

3. Learned counsel for the petitioner submits that the petitioner is not at all involved in so far as the recovery and seizure of the contraband liquor is concerned even by considering the statements recorded under Section 161 Cr.P.C. Thus, it is submitted that the criminal proceeding which has been initiated at the behest of the Excise Department in 2(a) C.C. No.10 of 2014 pending in the court below cannot be sustained, in other words, the impugned order is liable to be quashed in the interest of justice.

4. Mr. Praharaj, learned Standing Counsel on the other hand submits that petitioner and another accused are the perpetrators of

the crime. It is further submitted that petitioner has been named in the PR and hence, there is a prima facie case against him and therefore, the learned court below has not committed any illegality in passing the impugned order dated 1st May, 2015.

5. Considering the above facts and having gone through the PR and the statements of witnesses recorded under Section 161 Cr.P.C., it is made to suggest that the petitioner appears to be the owner of the house where the contraband liquor was stored.

6. The Court is of the view that the involvement of the petitioner or otherwise cannot be determined without a full-fledged trial but such ground can be raised at the time of framing of charge. In other words, the Court is not inclined to interfere with the impugned order dated 1st May, 2015. Accordingly it is ordered.

7. Consequently, the CRLMC stands disposed of with a liberty to the petitioner to raise such grounds seeking discharge at the time of framing of charge in 2(a) C.C. No.10 of 2014 and in such an event, learned J.M.F.C., Kodala shall consider the same and pass appropriate order as per and in accordance with law.

8. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge