

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 4424 of 2015

Sri Subash Chandra Nayak

....

Petitioner

Mr. Dillip Ray, Advocate

-Versus-

State of Odisha (Vigilance)

....

Opposite Party

Standing Counsel for Vigilance

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

17.08.2022

Order No.

- 09.
1. Heard learned counsel for the petitioner and learned Standing Counsel for the Vigilance Department.
 2. The instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashing of the order of cognizance dated 7th May, 2015 passed in T.R. No.10 of 2015 pending in the file of learned Special Judge (Vigilance), Balasore under Section 13(2) read with Section 13(1)(c)(d) of the Prevention of Corruption Act, 1988 besides Sections 409/468/467/34 of I.P.C. on the grounds stated therein.
 3. The court perused the F.I.R. and other documents on record.
 4. Learned counsel for the petitioner submits that he was in no way responsible for the alleged release of Indira Awas Yojana (IAY) fund to the so called beneficiaries and therefore, he cannot be said to have misappropriated an amount of Rs.1,60,840/- which has

been alleged by the informant. It is further submitted that the petitioner had simply put his signature on the document and stated that he was not responsible for recommending the names of beneficiaries, hence, the proceeding which has been initiated against him and registered as Balasore P.S. Case No.41 of 2012 under Sections 13(2) read with Section 13(1)(c)(d) of Prevention of Corruption Act, 1998 and Sections 409/468/467/34 of I.P.C. is not justified at all and accordingly prays for quashing of the proceeding.

5. Learned Standing Counsel for the Vigilance Department on the other hand objects to the contention of the learned counsel for the petitioner and submits that the petitioner is responsible for recommending the names of beneficiaries violating the terms and conditions of the scheme, which is for the benefit of BPL category individuals and none of the family members should be in the Government service, which is prima facie established from the materials on record.

6. From the F.I.R., it is prima facie revealed that petitioner had a role to play in recommending the names of the persons for Indira Awas Yojana scheme, who were not eligible for receiving the benefit thereunder which led to sanction and release of Rs.1,60,840/-. It is alleged that the petitioner and two others sharing a common intention did the mischief and allegedly misappropriated the said amount. The grounds which has been raised to the effect that he is not responsible in misappropriating Rs.1,60,840/- and he had simply put his signature on the alleged document cannot be a ground for quashing the proceeding when the FIR makes out a prima facie case against him which is required to be examined during trial.

7. At this juncture, the learned counsel for the petitioner submits that in the event the Court is not inclined to interfere with the proceeding in T.R. Case No.10 of 2015, liberty may be granted to the petitioner to raise all such grounds at the time of framing of charge.

8. In the result, the CRLMC application stands dismissed. However, considering the above prayer, the petitioner is granted the liberty to raise all the grounds which have been taken in the petition before the court below at the time of framing of charge and if so moved, the same shall be considered by the court on its own merit and in accordance with law.

(R.K. Pattanaik)
Judge

U.K.Sahoo

