

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.537 of 2022

Somjeet Behera

....

Petitioner

Mr. Himanshu Bhusan Dash, Advocate

-versus-

State of Odisha

....

Opp. Party

Ms. Samapika Mishra, Additional Standing Counsel

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER
4.5.2022

Order No.

01. 1. Heard Mr. H.B. Dash, learned counsel for the Petitioner and Ms. S. Mishra, learned Additional Standing Counsel.
2. The Petitioner by invoking power of this court under Section 482 Cr.P.C. has prayed to quash the entire criminal proceeding initiated against him in G.R. Case No.251 of 2001 pending before learned J.M.F.C.(R), Cuttack.
3. The offences alleged are under Sections 143/341/149 of the Indian Penal Code and Section 174 of the Railways Act.
4. It is submitted on behalf of the Petitioner that though the prosecution initiated in the year 2001 but till date only 2 witnesses have been examined out of 11 charge-sheeted witnesses. In the meantime the Petitioner had approached this Court in CRLMC No.3310 of 2012 and this Court, by order dated 3rd September, 2014, had directed to dispose of the trial as expeditiously as possible,

preferably within a period of six months from the date of receipt of that order. Then on 13th March, 2021 the learned Trial court, for non-production of prosecution witnesses, had closed the prosecution case and posted the matter to 27th March, 2019 for recording of accused statement. Subsequently a petition dated 5th August, 2021 was filed by the prosecution under Section 311 of the Cr.P.C. praying to allow the prosecution to examine the material witnesses. The said petition was allowed by the Trial court by order dated 28th December, 2021.

5. However, it is fairly agreed by the learned counsel for the Petitioner that he is not questioning the order of the Trial Court dated 28th December, 2021 though he is praying for quashing of the entire criminal proceeding. In support of his contentions he relies on the decision of this Court in the case of ***Maheswar Mohanty v. State of Orissa, (2006) 2 OLR 67*** and ***Bhaskar Chandra Nayak and Another v. State of Orissa, (1997) 84 CLT 392***.

6. After hearing Ms. Mishra, learned ASC for State and upon perusal of copies of orders dated 13th March, 2019, 28th December, 2021 and other orders of the learned Trial court as produced under Annexures-3 and 6, it reveals that after closure of the prosecution case on 13th March, 2019, prosecution was permitted to produce its evidence and examine such witnesses under Section 311 Cr.P.C. in the interest of justice, which is never questioned by the Petitioner and he participated in course of trial. As such the approach of the present Petitioner to invoke jurisdiction under Section 482 Cr.P.C. to quash the entire proceeding at this stage without any challenge to order dated 28th December, 2021 permitting prosecution to produce their witnesses, is not entertained. When order dated 28th December, 2021

is accepted on the part of Petitioner, which is fairly agreed in course of hearing by learned counsel for the Petitioner, no merit is seen in his prayer to quash the proceeding at such stage when the trial seems proceeding.

7. Accordingly the CRLMC is dismissed.

8. However, considering the year-old pendency of the case, learned trial court is directed to complete the trial within a period of six months from the date of receipt of copy of this order and report compliance to this court.

9. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge

M.K.Panda

