

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.741 of 2022

Mohd Tahid *Petitioner*
State of Orissa *Opposite Party*
versus-

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
28.07.2022

03. 1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the proceeding in G.R. Case No.99 of 2002, which is pending in the court of J.M.F.C., Barbil.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party.
4. The Petitioner has sought for quashment of the aforesaid proceeding on the ground that there is inordinate delay in disposal of the case.
5. It is the case of the Petitioner that in the aforesaid case though all witnesses have been examined except the Investigating Officer, but the case is lingering for non-examination of the I.O. For such delay in disposal of the case, the Petitioner, who is aged person, is suffering lot and as such he has sought for quashment of the aforesaid proceeding, as

expeditious disposal of the case is one of the facets of fundamental right guaranteed under Article 21 of the Constitution of India.

6. Learned counsel for the Petitioner drawing notice of the court to the same, submits that the prosecution against the Petitioner be quashed on the ground that there is inordinate delay in trial of the case inasmuch as though P.W.1 examined on 26th August, 2004, but the trial has not yet been concluded. Offences alleged in this case against the Petitioner are not serious in nature and triable by Magistrate First Class. Hence, the proceeding be quashed.

7. The learned counsel for the State has made objection for the same.

8. As it appears from the report of the learned Additional Judicial Magistrate First Class, Barbil that charge in this case has been framed on 19th March, 2004 and since then, 12 numbers of charge sheeted witnesses have been examined out of 23 charge sheeted witnesses and summons for rest of the witnesses have been issued. For non-examination of the rest charge sheeted witnesses, the case is lingering. The accused is not in custody. The subsequent report received from the learned J.M.F.C.-II, Barbil also discloses no further progress, though the learned Additional Judicial Magistrate First Class, Barbil by inadvertence reflected in his report that charge was framed in the year 2014.

9. Be that as it may, since the case is triable by warrant procedure and the accused is also not in custody, even the accused would have been in custody, the court could not have quashed the prosecution in the midst of the trial in exercise of power under Section 482 of Cr.P.C.

10. However, taking note of the inordinate delay in disposal of the case and the case is lingering for non-examination of the witnesses of the prosecution, it is directed to the trial court to do well to examine the rest witnesses of the prosecution within a period of six months from the date of receipt of copy of this order and within the said period, if the prosecution fails to tender all the witnesses, the trial court shall then close the case of the prosecution and proceed with the trial of the case and conclude the same in the manner known to law not later than two months thereafter.

11. With the aforesaid order, this CRLMC stands disposed of.

(S. Pujahari)
Judge

DA