

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 932 of 2022

Basant Kumar Das

....
Mr. Niranjan Lenka, Advocate

Petitioner

-Versus-

State of Orissa and another

....
Mr. Sidharth Shankar Mohapatra, ASC

Opposite Parties

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
28.10.2022

Order No.

- 04.
1. Heard learned counsel for the petitioner and learned counsel for the State.
 2. In the instant case, the petitioner has sought for quashing of the criminal proceeding in 2(C)CC No.10 of 2013 pending in the court of learned S.D.J.M., Rairangpur on the ground that there is considerable delay and as on date, not a single witness has been examined in the said proceeding. Learned counsel for the petitioner submits that the criminal proceeding in the above case cannot be sustained in law as there has been no notice issued to the petitioner in terms of Section 19 of the Environmental Protection Act, 1986 (in short 'the Act') before filing the complaint. It is submitted that there has been no progress in the case, inasmuch as, not a single witness so far has been examined, for which, the fundamental right guaranteed to the petitioner under Article 21 of the Constitution of India has been violated and therefore, the criminal proceeding in

2(C)CC No.10 of 2013 should be terminated by this Court in exercise of jurisdiction under Section 482 Cr.P.C.

3. It is submitted that 60 days notice should have been issued to the petitioner before filing a complaint as required under Section 19 of the Act, which has not been ensured. A copy of the complaint petition is at Annexure-9 and the same is perused. In fact, the complaint is filed against the petitioner for the offences under Sections 15 and 16 of the Act and the details of the facts leading to filling of complaint stand described therein.

4. Mr. Mohapatra, learned counsel for the State submits that said complaint was filed against the petitioner for violation of the Sections 15 and 16 of the Act and rules made thereunder.

5. Considering the above facts and submissions of the respective parties, the Court directs that the petitioner should be granted liberty to take all such grounds at the time of framing of charge by filing an application even with regard to the maintainability of the criminal proceeding. In other words, the Court is not inclined to quash the criminal proceeding initiated against the petitioner. Accordingly, it is ordered.

6. Consequently, the CRLMC stands disposed of with liberty to the petitioner to raise all grounds as are available to him in law at the time of framing of charge and if such an application is moved, learned court below shall pass appropriate order as per and in accordance with law. It is further directed that the court below shall expedite the hearing of the case and ensure its completion preferably within a period of six months from the date of receipt of a copy of this order.

7. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

