

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMC No.1097 of 2022**

***Panchanan Nayak.***

....

***Petitioner***

***-versus-***

***State of Odisha.***

....

***Opposite Party***

**CORAM: JUSTICE S.PUJAHARI**

**ORDER**

**12.07.2022**

**Order No.**

02.

1. This matter is taken up through Hybrid mode.
2. The petitioner in this application under Section 482 of the Code of Criminal Procedure (for short "Cr.P.C.") has prayed for quashing of the order dated 17.12.2021 passed by the learned S.D.J.M., Talcher, in G.R. Case No.15 of 2021 rejecting his petition vide which the petitioner sought an order to proceed against the accused persons for the offences alleged.
3. Heard the learned counsel for the petitioner and the learned counsel for the State.
4. The limited grievance of the petitioner, who is the Informant in Colliery P.S. Case No.6 of 2019, in this case is that the learned Magistrate before accepting the Final Form,

issued notice to him as required under law laid down in the case of *Bhagwant Singh v. Commissioner of Police and another*, reported in AIR 1985 SC 1285 and on receipt of such protest petition, the learned Magistrate citing the law laid down in the case of *Abhinandan Jha and others vrs. Dinesh Mishra*, reported in AIR 1968 S.C. 117, directed the police to re-investigate into the matter. It is the grievance of the petitioner that thereafter when police pursuant to the said order did not take any action, he ventilated his grievance before this Court in a writ petition vide CRLMP No.1381 of 2021 besides filing a petition before the learned SDJM, Talcher to proceed against the accused persons. But, on the submission advanced by the learned counsel for the State that such a petition was pending before the learned SDJM, Talcher, the writ petition was disposed of by this Court vide the order dated 10.11.2021 as follows:-

“This matter is taken up through video conferencing mode.

Heard Mr.Guru, learned counsel for the petitioner and Mr.Nanda, learned Addl. Government Advocate.

On perusal of records it reveals that the petitioner has filed a protest petition before the learned S.D.J.M., Talcher and in such background, Mr.Nanda, learned Addl. Government Advocate submits that the petitioner should pursue his remedy before the learned S.D.J.M., Talcher instead of rushing to this Court.

In response, Mr.Guru, learned counsel for the petitioner submits that liberty may be granted to the petitioner to move the learned S.D.J.M., Talcher in an

appropriate manner in the background of the decision of this Court rendered in the case of Bahlab Charam Sahoo Vrs. State of Orissa reported in 2011(I) ILR-CUT-873.

Considering the submissions made, this CRLMP is disposed of permitting the petitioner to pursue his remedy before the learned S.D.J.M., Talcher as per law where he has filed a protest petition.

Urgent certified copy of the order be granted on proper application.”

5. However, thereafter no action pursuant to the aforesaid order having been taken by the learned S.D.J.M. as well as the police, the petitioner has come to this Court by filing this petition under Section 482 of Cr.P.C. seeking a direction for issue of N.B.W.(A) against the accused persons. Since no case is pending against the accused persons and the case being under investigation in view of the direction issued by the learned SDJM, Talcher in the aftermath of submission of the Final Report, I find no illegality or infirmity in the impugned order.

6. However, since the police is stated to be taking no action on the direction of the learned SDJM, Talcher, the learned SDJM, Talcher shall call for a report from the police with regard to the steps taken on his direction given in G.R. Case No.15 of 2019 to re-investigate into the matter, and regarding the present status of the investigation, and also to proceed in accordance with law, if his order is found to have not been complied with.

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

***(S. Pujahari)***  
***Judge***

MRS

