

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1113 of 2022

Ashesha Kumar Jena

Petitioner

Mr. S.R. Mohapatra, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

29.11.2022

Order
No.
04.

1. Heard learned counsel for the petitioner and learned counsel for the State opposite party.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner assailing the order of cognizance dated 10th July, 2020 passed in C.T. Case No.129 of 2020 by the learned J.M.F.C., Soro on the grounds stated therein.
3. Mr. Mohapatra, learned counsel for the petitioner submits that the petitioner is the quarry owner and he was not involved in any illegal transportation of quarry stones but has been chargesheeted for the alleged mischief. It is further submitted that initially a preliminary CS was submitted and not against the petitioner, however, the in the final chargesheet, he was arrayed as an accused and that too without any evidence. It is claimed that the petitioner was shifting the quarry materials in some vehicles which were found stationed at the spot when the same was intercepted and on that basis, the chargesheet was filed and therefore, the criminal proceeding which has been initiated post lording of the FIR and registration of Khaira P.S. Case No.41 dated 23rd February, 2020 is unjustified and cannot be sustained in law which is objected

to by Mr. Praharaj, learned counsel for the State on the grounds that there is a prima facie material submitted long the final chargesheet showing involvement of the petitioner and therefore, he cannot be exonerated.

4. The Court perused the copy of the FIR which is at Anenxure-1. The preliminary and final chargesheets have been filed and admittedly, the petitioner was chargesheeted towards the end, whereupon, the learned court below took cognizance of the alleged offences vide Annexure-3.

5. The claim of the petitioner is that he is not involved in any such illegal transportation of quarry stones but was only found shifting the materials in the alleged vehicles while being intercepted. However, such a ground cannot be the basis for quashing of the criminal proceeding. The contention is clearly factual based and it needs determination of material on record. In other words, materials collected during investigation and submitted with the final chargesheet shall have to be examined by the learned court below in its entirety to find out and ascertain the nature of involvement of the petitioner with regard to the allegation vis-à-vis illicit transportation of quarry stones. It is not a fit case, therefore, to interfere exercising inherent jurisdiction. However, the Court is of the considered opinion that the petitioner should be granted the liberty to raise all the grounds at the time of framing of charge which would be the right course of action instead.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands disposed of with a liberty granted in favour of the petitioner to raise all the points and other grounds as available to him under law at the time of framing of charge before the learned court below in connection with C.T. Case

No.129 of 2020 pending in the file of learned J.M.F.C., Soro and in the event any such application is so moved by him, the court below shall consider the same and pass orders thereon as per and in accordance with law.

8. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

TUDU

