

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2528 of 2012

Chaitanya Dehury @ Chaitan

....

Petitioner

M/s. B.S. Tripathy, Advocate and associates

-versus-

State of Orissa and others

....

Opposite Parties

Mr. A.P. Das, A.S.C. for the State

M/s P.K. Mohapatra, Advocate and associates for O.P. Nos.2 to 5

CORAM:

THE CHIEF JUSTICE

ORDER

13.05.2022

Order No.

04. 1. The present application challenges a judgment dated 7th August 2012 passed by the learned Sessions Judge, Angul in Criminal Revision No.3 of 2007 which in turn arose out of an order dated 30th November 2006 passed by the Sub-Divisional Magistrate, Angul in C.P. III Case No.501/2002.
2. The villagers of villages Malisahi and Panchamahala had filed a complaint on 30th October 2002 before the National Human Rights Commission at New Delhi (NHRC) as a result of which the Additional District Magistrate (ADM), Angul initiated a case under Section 133 Cr.P.C. i.e. C.P.III Case No.501 of 2002 against Opposite Party Nos.2 to 5 on the ground that they were unauthorizedly operating a stone crusher in the name and style of "M/s. Balaji Industries" which was severely polluting the environment and causing health hazards.
3. An order was passed by the SDM on 30th November 2006 directing Opposite Party Nos.2 to 5 to stop operating the crusher unit within two months.

4. In the impugned judgment dated 7th August 2012, it was noted by the learned Sessions Judge, Angul as under:

“11. The question that now arises is whether the matter is to be remitted back for fresh disposal granting liberty to take recourse to the provisions of Section 139 of Cr.P.C. or the impugned order is to be simply set aside. It is borne out from the case record that the crusher unit has stopped functioning since 01.11.2002 which is nearly 10 years ago. Under the circumstances, sending an expert to ascertain the truthfulness or otherwise of the allegations made by the 1st Party members at this distance of time becomes wholly redundant because unless the unit itself is operational, no inquiry can possibly be made regarding the level of pollution caused by it. There is, thus, no other option than to set aside the impugned order. Of course, once the unit becomes operational, it always open to the members of the public, including the 1st party members to submit complaints afresh if the unit is found to be violating the environmental norms.”

5. The Court sees no reason why it should interfere with the above conclusion in the impugned judgment particularly since the crusher unit admittedly stopped functioning since 1st November 2002 i.e. nearly 20 years ago. Keeping the present proceedings alive would serve no purpose whatsoever. The CRLMC is accordingly dismissed. The interim order dated 18th September 2012 passed in the present application stands vacated. The Superintendent of the concerned Branch to immediately communicate this order to the concerned subordinate court.

6. Urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice