

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1199 of 2022

Anam Naik

....

Petitioner

Mr.Devashis Panda, Advocate

-Versus-

State of Odisha (Vig.) & Others

....

Opposite Parties

Mr.Niranjan Moharana, Standing Counsel
for the Vigilance Dept.

CORAM:

JUSTICE R.K.PATTANAİK

ORDER

28.09.2022

Order No.

03.

1. Heard Mr. Panda learned counsel for the petitioner and Mr. Niranjan Moharana, Standing Counsel for the Vigilance Department.

2. In the present case, the petitioner has invoked the inherent jurisdiction of this Court under Section 482 of Cr.P.C. for quashing the F.I.R. and investigation which has been initiated vide Koraput Vigilance P.S. Case No. 03 of 2020 corresponding to G.R. (Vig.) Case No.05 of 2020 pending in the file of the learned Special Judge (Vigilance), Bhawanipatna on the grounds inter alia that it is not tenable in law.

3. Perused the copy of the F.I.R. which is at Annexure-1. In fact, later to the lodging of the F.I.R., Koraput Vigilance P.S. Case No. 03 dated 22nd January, 2020 was registered under Section 13(2) read with Section 13(1)(b) of the Prevention of Corruption Act, 1988 and in that connection, investigation was commenced which is still underway.

4. Mr. Panda, learned counsel for the petitioner submits that some of the assets acquired by the petitioner while he was not in service have also been included by the Vigilance Department and are the subject of investigation at present which should not have been although he was briefly out of Government service and was in service for certain periods. In response to the above, Mr. Moharana, learned counsel for the Vigilance Department admits that the petitioner was not in service for some periods by referring to the details of the assets mentioned in the F.I.R. itself and the dates of purchases made.

5. In view of the above, the Court is of the view that the assets acquired by the petitioner during such periods while he was not in service should not be included for the purpose investigation and for that he cannot be proceeded with which has also been acknowledged by Mr. Moharana, learned counsel for the Vigilance Department and accordingly, it is ordered.

6. The Vigilance Department is hereby directed to exclude all such assets which have been acquired by the petitioner during the periods while he was not in service and proceed with the investigation with other subjects details of which stand described in the F.I.R. itself.

(R.K.Pattanaik)
Judge

I.A. No. 969 of 2022

04.

1. In the present I.A., Mr. Panda, learned counsel for the petitioner submits that the accounts of the petitioner have been

freezed on the requisition of the Vigilance Department and for that, the petitioner is facing a lot of difficulty and he does not have any source of sustainability to maintain his livelihood. Mr. Moharana, learned Standing counsel for the Vigilance Department submits that there is no objection in defreezing the accounts except (SB A/c No.06640110040133 which is item No.42 under the heading 'Bank Deposits' mentioned in the F.I.R.) No objection is offered by Mr. Panda, learned counsel for the petitioner with regard to the said bank account, if not defreezed.

2. In view of the above, all the bank accounts with deposits as mentioned in the F.I.R. except item No. 42 for an amount of Rs.30,10,919/- are directed to be defreezed. It is made clear that the petitioner may be allowed to operate the said account keeping the balance of Rs. 30,10,919/- without it being withdrawn or dealt with any manner whatsoever.

3. With the above directions, the I.A. stands disposed of.

4. A free copy of the above order be issued in favour of the Mr. Moharana, learned Standing counsel for the Vigilance Department for immediate compliance.

5. An urgent certified copy of this order be issued to Mr. Panda, learned counsel for the petitioner as per rules forthwith.

(R.K.Pattanaik)
Judge