

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2495 of 2016

Purusottam Mohanty

.... ***Petitioner***
Mr. S. Pattanaik, Advocate

-versus-

Republic of India

.... ***Opp. Party***
Mr.S. Nayak, Adv. For C.B.I.

CORAM:

JUSTICE G. SATAPATHY

ORDER

09.11.2022

Order No.

- 07.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application under section 482 of Cr.P.C. by the Petitioner seeking to quash the order passed on 15.02.2016 by the learned Special Judge, C.B.I. No. 04, Bhubaneswar in T.R. No. 14 of 2013 rejecting the discharge petition filed by the Petitioner.
 3. In the course of hearing, Mr. Bishal Baibhav submits that the case is an outcome of malice and the Petitioner has been falsely implicated in this case but learned Trial Court without dealing into the matter on merit has mechanically rejected the discharge petition filed by the Petitioner. It is further submitted that even the accused was not examined during the course of investigation which led to miscarriage of justice and thereby the impugned order cannot sustain in the eye of law. It is accordingly prayed by him to quash the impugned order recorded by the learned Special Judge, C.B.I. No. 04, Bhubaneswar.
 4. In repelling the submissions advanced on behalf of the Petitioner Mr. S. Nayak, learned counsel appearing for CBI submits that, on receipt of the complaint, the CBI Officials led a trap in which the accused-Petitioner was found to have demanded and accepted

bribe of Rs. 1,000/- out of the negotiated amount of Rs. 2,000/- and therefore, the impugned order passed on sound discretion of judicial mind cannot be quashed. It is further submitted that one Manoj Kumar Sahoo, being an employee in the E.P.F.O. Office has requested the Accused-Petitioner to process his P.F. application which was pending before him and he accordingly had demanded a cash of Rs. 1,000/- out of the negotiated bribe of Rs. 2,000/- on 21.05.2013 at about 1:00 PM in the office of E.P.F.O., but the complainant being aggrieved with such demand of bribe had lodged the complaint before the CBI and accordingly a trap was led in which the Petitioner was caught red handed while demanding and accepting bribe of Rs. 1,000/-. In relying upon the decision of the Apex Court in the case of *State of Rajstan Vrs. Ashok Kumar Kashyap (2022) 1 SCC (Cri) 286*, learned counsel for Republic of India-cum-CBI submits that at the stage of framing charge, the Court is required to consider whether prima facie case is made out or not but the defence of the accused cannot be taken into consideration and in this case, the Petitioner having prima facie found to have demanded and accepted bribe and thereby, a prima facie case is well made out against the Petitioner. It is accordingly submitted by learned counsel for the CBI to dismiss the CRLMC application.

5. After having considered the rival submission of the parties upon reference to the impugned order and the materials on record, there appears allegation against the Petitioner for demanding and accepting bribe from one Manoj Kumar Sahoo who was working as a waiter in a private hotel to process his PF application for payment. It also appears from the record that the Petitioner was apprehended by the CBI at the time of alleged demand and acceptance of bribe. A careful perusal of the impugned order would go to indicate that the

learned Special Judge, CBI, after going through the record has found out some prima facie case against the Petitioner and thereby rejected the discharge petition filed on behalf of the Petitioner.

6. It is never a legal requirement to record the statement of accused during the course of investigation, but the Investigating Officer may record such statement for the purpose of reference in a case and such statement of accused has got hardly any legal sanctity in the eye of law because the statement before a police officer is not at all admissible in the eye of law being hit by Section 25 of the Indian Evidence Act. On close scrutiny of the impugned order on the face of the materials on record, this Court does not find any error apparent with the impugned order so as to warrant any interference U/S 482 Cr.P.C.

7. In view of above facts and taking into consideration the rival submissions advanced on behalf of the parties and the law laid down by the Apex Court in *Ashok Kumar (Supra)* as relied on by the learned counsel for the OP, this court hardly finds any merit in the CRLMC application and thereby the impugned order passed by the learned Special Judge, CBI cannot be faulted with.

8. In the result, the CRLMC is dismissed on contest but in the circumstance without any cost.

9. A free copy of the order be supplied to Mr. S. Nayak, learned counsel appearing for the CBI.

(*G. Satapathy*)
Judge