

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2467 of 2015

Biswambar Sahu

....

Petitioner

Mr. M.K.Panda,
Advocate

-versus-

State of Orissa

....

Opp. Party

Mr. D.Nayak,
Additional Government Advocate

**CORAM:
MR.JUSTICE G. SATAPATHY**

**ORDER
05.09.2022**

Order No.

08.

1. Invoking jurisdiction under Section 482 Cr.P.C., the petitioner has sought for to quash the order passed on 26.3.2015 by learned Judge Special Court, Angul in Special Case No. 84 of 2013 taking cognizance of offence U/S. 20(b)(ii)(C) of N.D.P.S. Act.

2. The facts in precise are that on 7.8.2013 at about 10 A.M. in the morning the Excise staff of Sambalpur while conducting raid in the house of the present petitioner namely, Biswambar Sahu in village Patkumunda in presence of witnesses including the official witness Tahasildar recovered 110 kgs. Contraband Ganja. Consequent upon recovery of contraband Ganja, the investigation ensued which culminated in submission of P.R. against the petitioner for offence U/S. 20(b)(ii)(C) of N.D.P.S. Act. The Learned trial Court, upon receipt of P.R. against the petitioner accused and being satisfied about

existence of prima facie case against the accused-petitioner took cognizance of offence U/S. 20(b)(ii)(C) of N.D.P.S. Act and issued process against the petitioner by issuing NBW(A) on 26.03.2015 in this case.

3. In course of hearing of this CRLMC, learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case and the alleged recovery of contraband Ganja is not from the house of the petitioner but from a house whose owner is someone else and the petitioner having not consciously possessed contraband Ganja, the order taking cognizance is unsustainable in the eye of law and the petitioner should not be implicated in this case by allowing the order of issuing process to stand. It is accordingly submitted to quash the order taking cognizance passed by the learned Special Judge, Angul in Special Case No. 84 of 2013.

4. On the other hand learned counsel appearing for the State vehemently contends that the alleged seizure is from the house of the petitioner and at this stage considering CRLMC application U/S. 482 of Cr.P.C., it is not proper to find out the ownership of the alleged house and the petitioner having been found in conscious possession of commercial quantity of Ganja, the order taking cognizance passed by the learned Special Judge, Angul cannot be faulted with and the CRLMC being devoid of merit may be dismissed.

5. Having heard the parties upon perusal of the record, it appears that the learned Special Judge, Angul after going through the materials i.e. P.R. and other connected documents and finding prima facie case has taken cognizance of offence U/S. 20(b)(ii)(C) of N.D.P.S. Act and

accordingly issued process by issuing N.B.W. against the petitioner. The certified copy of P.R. report as available on record would go to indicate the alleged recovery of contraband Ganja from the house of the petitioner. In course of hearing, no materials or document is being produced on behalf of the petitioner to find out any fault with the order taking cognizance of offence by the learned Special Judge, Angul. It would also not proper to find out the ownership of the house by merely perusing a photocopy of R.O.R. produced on behalf of the petitioner which also stands in the name of the father of the petitioner. Neither any material or document was brought to the notice of the Court so as to satisfy it about the impugned order infact being an abuse of process of Court or quashing of impugned order would otherwise secure ends of justice.

6. In the ultimate appraisal of the materials on record and the order impugned in this case upon perusal of the P.R., this Court does not find any illegality or perversity in the impugned order so as to warrant any interference by this Court.

7. Accordingly, the CRLMC stands dismissed.

(G.Satapathy)
Judge

