

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1886 of 2019

Sunabara Mallick and others *Petitioners*
versus-
State of Orissa *Opposite Party*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
28.03.2022

06. 1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioners with a prayer to quash the criminal proceeding initiated against them vide G.R. Case No.78 of 2009 pending in the Court of J.M.F.C., Daringbadi, Kandhamal.
3. Heard the learned counsel for the Petitioners and the learned counsel for the State-Opposite Party.
4. It appears that the Petitioners were proceeded in the aforesaid case for obtaining a Scheduled Tribe Certificate though they allegedly members of Scheduled Caste have been converted to Christianity by fabricating documents and misrepresentation as was found in inquiry was conducted by the State Level Committee. The Petitioners, however, challenged the same before this Court in W.P.(C) No.7812 of 2009 wherein the report was set aside and the matter was remitted back

for fresh inquiry and in the inquiry report at Annexure-6, a finding has been given that they belongs to Scheduled Tribe community and presently practicing Christianity.

5. Learned counsel for the Petitioners submits that since foundation for lodging the prosecution against the Petitioners for obtaining a Scheduled Tribe Certificate by misrepresenting of them has been demolished, notwithstanding the conversion to Christianity, a tribal remains a tribal, the criminal prosecution launched against the Petitioners, basing on the earlier report, which is no more existence is without any foundation, as such, the same is liable to be quashed.

6. Learned counsel for the State does not dispute that the inquiry report under Annexure-6 to this petition, which has been held that the Petitioner No.3-Chakradhara Mallick is a tribal.

7. No material is produced before this Court indicating the fact that such report of the State Level Scrutiny Committee has not reached finality in favour of the Petitioners and the earlier report basing on which the criminal prosecution was lodged for obtaining a Scheduled Tribe Certificate by misrepresenting having been demolished, in view of the subsequent report, this Criminal Prosecution is futile exercise to proceed against the Petitioners as hereinafter there is no prima facie

case against them in any manner. So continuance of the proceeding against the Petitioners shall be an abuse of process of court.

8. Accordingly, this Criminal Misc. Case is allowed and the criminal proceeding initiated against the Petitioners vide G.R. Case No.78 of 2009 pending in the Court of J.M.F.C., Daringbadi, Kandhamal stands quashed. The learned J.M.F.C., Daringbadi, Kandhamal or the Court in seisin over the matter shall on receipt of the copy of this order/production of the copy of this order, pass necessary order to close the aforesaid case.

9. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

DA