

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4388 of 2011

Radhamohan Sahoo

....

Petitioner

-versus-

State of Orissa and another

....

Opposite Parties

CORAM: JUSTICE S. PUJAHARI

ORDER

11.04.2022

Order

No.

20.

1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order of cognizance dated 10th August, 2011 passed by the learned S.D.J.M.(S), Cuttack in 2(C)C.C. No.703 of 2011, as well as the entire proceeding.
3. Heard the learned counsel for the Petitioner, the learned counsel for the State-Opposite Party No.1 and the learned counsel for the Opposite Party No.2.
4. Petitioner has filed this petition challenging the aforesaid proceeding under the payment of Minimum Wages Act.
5. It is the case of the Petitioner that the order of cognizance as well as the proceeding against the Petitioner is

incompetent inasmuch as the employees, who were working at Kala Vikash Kendra, are not the permanent employee, but part time workers. As such, the court could not have taken cognizance and proceed against the Petitioner.

6. Mr. D.N. Lenka, learned counsel appearing for the Opposite Party No.2 submits that the aforesaid is a defence plea which cannot be looked into at the stage of cognizance, inasmuch as the materials are there to show that the employees were working at Kala Vikash Kendra not paid the minimum wages.

7. Learned counsel for the State-Opposite Party No.1 also echoes the submission of the learned counsel for the Opposite Party No.2 while opposing the prayer made in this petition.

8. Regard being had to the facts and submissions made, especially the scope of the court that the court at the stage of cognizance has to look into a prima facie case not to take a defence version for consideration and the aforesaid appears to be defence version, which is subject to prove in the court and, as such, not an evidence of sterling value, this Court is not inclined to interfere with the impugned order.

9. Therefore, this Court is of the view that the prayer made by the Petitioner in this petition is devoid of merit.

10. However, giving liberty to the Petitioner to raise all such contention at the time of trial and with the hope and trust that if such contention is raised, court shall address the same vis-à-vis the evidence on record while rendering the judgment, this petition stands disposed of.

11. Furthermore, this being a year old case and relating to payment of minimum wages, the court must proceed in this case with utmost expedition and try to conclude the same within six months hence.

12. Interim order dated 19th December, 2011 passed by this Court in Misc. Case No.3010 of 2011 stands vacated.

(S. Pujahari)
Judge

DA

