

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1637 of 2022

Santosh Nayak

....

Petitioner

-versus-

State of Odisha & another

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

12.07.2022

Order No.

03.

1.This matter is taken up through Hybrid mode.

2.Heard learned counsel for the Petitioner.

3. The grievance of the Petitioner in this case is that since the FIR allegation does not disclose any case under the S.C. & S.T. (PA) Act, the I.O thereafter could not have made a prayer to the court that material with regard to commission of offence under the S.C. & S.T. (PA) Act having come out and the J.M.F.C. being bereft of jurisdiction as such may transmit the case to the Special Court under the S.C. & S.T. (PA) Act and pursuant to the same, the J.M.F.C. could not have transmitted the same. Therefore, the Petitioner has come to this Court for quashment of the said offences under the S.C. & S.T. (PA) Act from the investigation.

4. The submission advanced by the learned counsel for the Petitioner in this regard is fallacious and misconceived inasmuch as the I.O while investigating into the cognizable offence, if found

any other offence to have been committed during the investigation need not register a fresh FIR for the same, to proceed against the accused persons indicted therein for the same, intimating the court about the same to do the needful if there is any legal impediment or requirement. Hence, in such premises this petition filed challenging the order of the learned J.M.F.C. allowing the prayer of the I.O to transmit the case to the Special Court under the S.C. & S.T. (PA) Act is devoid of merit.

5. Further contention of the learned counsel for the Petitioner is that since no material is available before the Special Court, the Special Court should not have entertained the prayer but the same is premature one inasmuch as the Police while investigating into the case made a prayer to the court that the case discloses the offence under the S.C & S.T. (PA) Act which is triable by the Special Court which is the court competent to take cognizance and try the case. Hence, at this stage entertainment of the case by Special Court cannot be questioned on the ground stated.

6. Accordingly, the CRLMC stands dismissed at the stage of admission.

(S. Pujahari)
Judge

PKS