

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 297 of 2022

Soumya Ranjan Mishra

....

Petitioner

Mr. S.R. Mulia, Advocate

-Versus -

State of Odisha

....

Opposite Party

Mr. P. Tripathy,

Additional Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

01.12.2022

Order No.

9.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is aggrieved by order dated 30.05.2022 passed by learned J.M.F.C. (City), Cuttack in Criminal Misc Case No. 52 of 2022 arising out of G.R. Case No.60 of 2022 whereby his application filed under Section 457 of Cr.P.C. for release/unlocking of the house in question was rejected.
4. The prosecution case in brief is that an FIR was lodged before Mangalabag Police Station alleging that one Alpha Health Care located at Kathagadha Sahi was engaged in illegal determination of sex of fetus by using ultrasound and other portable machines. The petitioner claims to be the owner of the house, which he had let out on hire to one Prasanna Kumar Sahoo. It is submitted that the petitioner has no role whatsoever to play in the alleged occurrence. In course of investigation, the portable machines were seized and the house was locked. The petitioner filed an application under Section 457 of Cr.P.C stating the relevant facts with prayer to unlock the house so as to be able to use the same. It is further

contended that police has no right to seize an immovable property.

5. In course of hearing, Mr.S.R. Mulia, learned counsel appearing for the petitioner has referred to the judgment dated 17.10.2022 passed by a coordinate Bench of this Court in CRLMC No.2227 of 2022 whereby the registration of the case under the provision of PC & PNDT Act was quashed for non-compliance of Section 28 of the said act. On such basis, Mr. Mulia submits there is no further necessity to keep the house locked as it is no longer required for investigation.

6. Learned State Counsel has obtained instructions to the effect that the prosecution has no objection to unlocking of the house as it is not required for the purpose of investigation.

7. Having regard to the above, the revision is allowed. The impugned order is set aside. Learned court below is directed to pass appropriate orders directing the IO to unlock the house immediately.

8. With these observations, the criminal revision is disposed of.

9. The CRLREV is disposed of accordingly.

(Sashikanta Mishra)
Judge