

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1985 of 2022

Subas Singh

....

Petitioner

-versus-

State of Odisha

....

Opposite Party

CORAM: JUSTICE S. PUJAHARI

ORDER

29.07.2022

Order

No.

01.

- 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 dated 4th December, 2010 passed by the learned S.D.J.M.(S), Cuttack in G.R. Case No.640 of 2010 wherein cognizance of the offences under Sections 143/294/431/283/506/149 of the I.P.C. read with Section 96 of the O.U.P. Act has been taken against him, as well as entire proceeding.
- 3.** Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party.

4. From the prosecution allegation, it reveals that without permission, the Petitioner organized a rally in protest against the eviction of small dwellers. As such, the F.I.R. was registered against him and others for the offences indicated above.

5. It appears that the investigation in this case has been concluded and charge-sheet has already been filed alleging commission of the said offence. However, no specific overt act is attributed to the Petitioner.

6. Learned counsel for the Petitioner submits that since the Petitioner in exercise of his democratic right of protest, is said to have organized or led the rally, though without permission, allowing the prosecution initiated in the year 2010, to continue against him would be nothing, but an abuse of the process of the Court. Hence, he sought for quashment of the order of cognizance as well as proceeding against him. Reliance in this regard has been placed in a decision

rendered by the Madurai Bench of Madras High Court in *Crl.O.P. (MD) No.4609 of 2021 and Crl.M.P.(MD) No.2578 of 2021 (Jafar Sathick @ Jahabar Sathick vrs. The State and another)*, decided on 25.03.2021, wherein in the similar fact situation the F.I.R. at the initial stage had been quashed.

7. Learned counsel for the State does not dispute the fact that the Petitioner appears to have played no overt act in the alleged case incidence.

8. Considering the aforesaid facts and submissions made, this Court, therefore, is of the view that continuance of the prosecution would be nothing, but an abuse of the process of the Court

9. Accordingly, this Court allows the Criminal Misc. Case. Consequently, the impugned order as well as the prosecution qua the Petitioner in G.R. Case No.640 of 2010 in the court of the learned S.D.J.M.(S), Cuttack stands quashed.

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

(S. Pujahari)
Judge

DA/MRS

