

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1986 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 18th January, 2011 passed by the learned S.D.J.M.(S), Cuttack in G.R. Case No.536 of 2010 wherein cognizance of the offences under Sections 143/294/353/149 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 a Mini Bus ran over an Auto Rickshaw, as a result of which, the driver of the Auto Rickshaw died. As such, the members of the Auto Rickshaw Association made a demand to take the dead body in a procession to Badambadi. Therefore, there was tussle between the Auto Rickshaw Union and the police. Hence, Managalabag P.S. Case No.85 of 2010 was registered against the Petitioner and others.

5. Although the name of the petitioner does not find place in the F.I.R., he has been charge-sheeted as a co-accused by the police, purportedly on the basis of the statements of the witnesses recorded under Section 161 of Cr.P.C. in course of the investigation, inasmuch as at the relevant time the petitioner happened to be the President of the Auto Rickshaw Union.

6. It is the submission of the learned counsel for the petitioner that the petitioner is well known

personality being associated with different organizations, and that since he was the President of the Auto Rickshaw Union, he has been arrayed as a co-accused, although in no manner he was involved in the alleged incident. It is further submitted on his behalf that the learned trial Court being oblivious of the fact situation has passed the impugned order in a mechanical manner, and hence the said order is liable to be quashed.

7. The learned Addl. Standing counsel for the opposite party-State without disputing the state of affairs as aforesaid, submits that since the petitioner happened to be the President of Auto Rickshaw Union at the relevant time, was charge-sheeted in this case.

8. A perusal of the F.I.R. would reveal that the name of the petitioner did not find place therein, although the members of the Auto Rickshaw Union or the persons presented at the spot and allegedly participated in the incident, have been specifically

named. In that view of the matter, the incident that allegedly took place or the overt acts committed cannot be attributed to the petitioner, merely because he at the relevant time happened to be the President of the Auto Rickshaw Union, and some of the members of the said Union got agitated due to death of the driver of an Auto Rickshaw on being run over by a Mini Bus. The Apex Court in the case of ***State of Haryana vrs. Bhajan Lal***, reported in 1992 Supp.(1) SCC 335, have been pleased to illustrate certain circumstances under which the High Court can exercise its inherent power under Section 482 of Cr.P.C. to quash the F.I.R. or the criminal proceeding at its threshold. One of such circumstances is quoted here below:-

“Where the allegations made in the F.I.R. or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima-facie constitute any offence or make out a case against the accused.”

9. Taking note of the facts and circumstances of the case as depicted from the F.I.R. and other police

papers on record, and keeping in view the settled principle of law, this Court is of the view that continuance of the prosecution against the petitioner would lead to abuse of the process of the Court, and the present is found to be a fit case for invoking the power of this Court under Section 482 of Cr.P.C. for quashing of the impugned order of cognizance as well as the proceeding in G.R. Case No.536 of 2010 qua the petitioner.

10. Accordingly, the Criminal Misc. Case is allowed, the impugned order of cognizance as well as the prosecution qua the Petitioner in G.R. Case No.536 of 2010 in the court of the S.D.J.M.(S), Cuttack stands quashed.

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

(S. Pujahari)
Judge

DA/MRS