

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4700 of 2014

Raghunath Mohapatra

....

Petitioner

Mr.J. Pal, Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr. P.K. Muduli, ASC

CORAM:

JUSTICE R.K. PATTANAİK

ORDER

15.07.2022

Order No.

06.

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. This application is filed under Section 482 at the behest of the petitioner assailing the impugned order dated 20th September, 2013 passed in G.R. Case No.1680 of 2013 pending in the court of learned S.D.J.M., Puri on the grounds *inter alia* that the same is not tenable in law especially due to want of sanction as is mandatorily required under Section 30C(2) of Shree Jagannath Temple Act, 1955 (hereinafter referred to as 'the Act').

3. Learned counsel for the petitioner submits that opposite party No.2 lodged the F.I.R. against the petitioner and others for illegally selling *Mahaprasad* inside *Bhitara Bedha* which has been prohibited by the Managing Committee as a result where all of them also found obstructing the passage from *Bhitara Bedha* to Ananda Bazar causing inconvenience to the visitors and later to the lodging of F.I.R., Singhadwar P.S. Case No.69 of 2013 was

registered under Sections 30(B) and 30A(5)(b) of the Act and thereafter, on completion of investigation, charge sheet was filed, whereupon, the learned court below took cognizance of the offences and issued summons to the accused persons including the petitioner.

4. The petitioner contends that no sanction was obtained for which, the learned court could not have taken cognizance of the offences under Annexure-2 which is, therefore, liable to be quashed in exercise of inherent jurisdiction of this Court. While contending so, a copy of the charge sheet is made available to the Court for perusal.

5. On a bare reading of the charge sheet, the Court finds there is no mention with regard to the sanction being obtained at the end of the investigation for the purpose of the court taking cognizance of the offences. The impugned order under Annexure-2 also does not reveal about any such sanction directed to be furnished by the informant in order to facilitate the Court for taking cognizance under Section 30A(5)(b) of the Act.

6. In the above factual position is not disputed by Mr. Muduli, learned AGA appearing for opposite party No.2 State.

7. In so far as Section 30B of the Act is concerned, it specifies that an offence which is committed under the Act to be cognizable in nature. Thus, therefore, the only offence which is alleged to have been committed by the petitioner is under Section 30A(5)(b) of the Act which is with regard to selling or offering or exposing *Mahaprasad* within the premises of the temple other than the place allotted by the Committee for the said purpose which carries penalty with fine which may extend to rupees one thousand.

8. Learned counsel for the petitioner draws attention of the Court to the relevant provision regarding sanction which is Section 30C(2) of the Act which clearly stipulates that no Court shall take cognizance of any such offence without the previous sanction of the Chief Administrator, namely, OP No.2.

9. In such view of the matter, sanction is necessarily required to be obtained in terms of Section 30C(2) of the Act either on the closure of investigation while filing of charge sheet or the Court itself should have directed the informant, namely, the Administrator, Shree Jagannath Temple to obtain sanction from opposite party No.2 and produce it for the purpose of taking cognizance of the alleged offence.

10. As stated earlier, there is no mention about sanction being obtained by the IO in the charge sheet and the impugned order at Annexure-2 does not either reveal regarding any such direction by the court below to the informant for obtaining sanction from opposite party No.2.

11. As a corollary, the Court is of the view that the order of cognizance cannot be sustained in absence of sanction as mandatorily required in view of Section 30C(2) of the Act.

12. Accordingly, it is ordered.

13. In the result, CRLMC stands allowed. Consequently, the impugned order under Annexure-2 passed by the court below in G.R. Case No.1680 of 2013 vis-à-vis the petitioner is hereby set aside. However, the court may proceed with the case by insisting upon the sanction or if in the event, any such sanction is found to have been obtained by the informant, namely, the Temple

Administrator as per Section 30C(2) of the Act to pass appropriate order in that respect and thereafter, to ensure its disposal in accordance with law.

(R.K. Pattanaik)
Judge

KC Bisoi

