

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1338 of 2020

Sanjay Kumar Tripathy ***Petitioner***

-versus-

State of Odisha (Vigilance) ***Opposite Party***

CORAM: JUSTICE S. PUJAHARI

ORDER

29.07.2022

Order

No.

05.

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 F.I.R. in Cuttack Vigilance Cell P.S. Case No.12 of 2017, corresponding to V.G.R. Case No.10 of 2017, pending in the Court of Special Judge, Vigilance, Sambalpur.
3. Heard the learned counsel appearing for the Petitioner and Mr. N. Moharana, learned Additional Standing Counsel appearing for the Vigilance Department.
4. The allegation of the prosecution is that though budgetary provision of Rs.32,00,000/- was there, but without

taking approval of the OSAM Board the petitioner along with his predecessors made expenditure on the dead stock furnitures, grading equipments and maintenance of weighbridge etc. of Rs.1,54,88,870/-.

5. Learned counsel for the Petitioner drawing the notice of the Court to the different provisions of the Acts and Rules governing the Regulated Market Committee, Sambalpur, submits that Petitioner being not entitled to draw a cheque of more than Rs.500/- and also being not entitled to purchase the materials without resolution of the Committee, he could not have been proceeded against in this case without the Chairman of the Regulated Market Committee (R.M.C.) being made an accused. However, Petitioner has purchased the materials is not in dispute. Furthermore, it is submitted that though the F.I.R. was lodged in the year 2017, but investigation having not been completed and there being delay in investigation, the F.I.R. and the consequential investigation is liable to be quashed, submits the learned counsel for the petitioner. Reliance in this regard has been placed in the case of *Vakil Prasad Singh v. State of Bihar*, reported in (2009) 3 SCC 355.

6. Mr. N. Moharana, learned Additional Standing Counsel appearing for the Vigilance Department though does not dispute the proposition of law laid down in the aforesaid case cited by the learned counsel for the petitioner, but submits that when the Petitioner is contributing for the delay himself, as he is neither cooperating with the investigation nor appearing or producing the required document before the Investigating Officer, he can not take the delay as a ground for quashment of the prosecution. That apart, the delay as pointed out also cannot be said to be inordinate one. The Vigilance Police is also taking all effective steps to conclude the investigation at the earliest. Therefore, the aforesaid cannot be a ground to quash the F.I.R. and consequential investigation. The other contention advanced on behalf of the Petitioner is that since the rule does not permit the Petitioner to draw the cheque and purchase the materials, the allegation against him is without any substance. But, there are materials on record to indicate that the Petitioner had drawn the cheque and also purchased the materials without resolution. The said facts prima facie militate against the contention raised by the petitioner. Furthermore, the aforesaid

is subject matter of the investigation, hence prayer for quashment of the F.I.R. on that ground is devoid of merit, submits the learned counsel for the Vigilance Department.

7. On consideration of the facts and submissions made, this Court is convinced of the fact that the petitioner has also contributed to the delay in completion of the investigation, inasmuch as he is not cooperating with the investigation. Therefore, the petitioner cannot take advantage of his own wrong seeking quashment of the investigation on the ground of delay though on the ground of delay in completion of investigation, an F.I.R. and the consequential investigation can be quashed against an accused indicted, is settled law which has been held by the Apex Court in the case of *Vakil Prasad Singh* (supra). The other contention of the petitioner is that he being not authorized under the Rule he could not have drawn the amount without resolution of the Authority and, as such, the case against him is false, is subject matter of investigation. As the Rule does not permit him to draw a cheque of more than Rs.500/- he could not have drawn the cheque appears to this Court to be misconceived, inasmuch as on the said allegation he

is being investigated into. Hence, both the grounds of the petitioner for quashment of the F.I.R. and the consequential investigation are devoid of merit. Accordingly, this CRLMC filed to quash the investigation on the grounds stated being devoid of merit stands dismissed.

8. However, reluctance of this Court to quash the F.I.R. and consequential investigation on the grounds stated should not weigh in the mind of the Investigating Agency, and if during the course of investigation, no material is incriminating to the Petitioner in any manner, is collected to file an appropriate report under Section 173 of Cr.P.C. Furthermore, liberty is given to the Petitioner, if there is inordinate delay in concluding the investigation, to approach this Court at appropriate stage seeking for quashment on that ground, provided he has cooperated with the investigation.

(S. Pujahari)
Judge

DA/MRS