

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2120 of 2022

Subasa @ Subash Chandra Barik @ Petitioner
Subash Barik

Mr. P.C. Jena, Advocate

-Versus-

State of Odisha and Another Opposite Parties
Mr. S.S. Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
02.11.2022

Order
No.

01.

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

2. In the present case, the challenge is as to the criminal proceeding in Special G.R. Case No.121 of 2021 arising out of Fategarh P.S. Case No.173 of 2021 pending in the file of learned Special Judge under SC&ST Act, Nayagarh on the grounds stated therein.

3. Mr. Jena, learned counsel for the petitioner submits that there has been statutory non-compliance in so far as the present case is concerned, inasmuch as, contents of the FIR have not been certified and that apart, the investigation has not been overseen by a police officer in the rank of DSP which is mandated in SC&ST (PoA) Act and also the rules made thereunder. On such ground, the criminal proceeding pending before the court of learned Special court is sought to be quashed at the behest of the petitioner.

4. Having considered the submissions of Mr. Jena, learned counsel for the petitioner and learned counsel for the State, the Court is of the view that if there is non-compliance of provision of SC&ST Act and also the rules, the petitioner is at liberty to raise such ground with other grounds as well at the time of framing of charge. In fact, Court at this point of time cannot examine such aspects including challenge with regard to the caste with reference to Presidential Order, 1950. In other words, it is not fit case where the exercise inherent jurisdiction should be invoked to interfere with the criminal proceeding pending before the Special court. The petitioner has the remedy and the liberty to raise any such ground before the Special court while seeking discharge.

5. Accordingly, it is ordered.

6. In the result, CRLMC stands disposed of with a liberty granted to the petitioner to raise all such grounds including statutory non-compliances at the time of framing of charge by making an application seeking discharge and if so moved, the learned Special Judge under the SC&ST Act, Nayagarh shall consider the same in connection with Special G.R. Case No.121 of 2021 corresponding to Fategarh P.S. Case No.173 of 2021 and pass appropriate orders thereon as per and in accordance with law.

7. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

TUDU