

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1502 of 2015

N.N. Behera *Petitioner*
versus-
State of Orissa and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
17.08.2022

04. 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 20th May, 1999 passed by the learned S.D.J.M., Baripada in 1.C.C. No.12 of 1999, taking cognizance under Sections 193, 465, 471 read with Section 120-B and 149 of the I.P.C.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party No.1.
4. Petitioner in this case has sought for quashment of the order of cognizance as well as the aforesaid proceeding on the ground that he being a Notary had done nothing, but given a certificate that Power of Attorney signed in his presence.
5. However, the allegation made in the complaint that without presence of the complainant, certificate given that he was present and executed the Power of Attorney. As such, Petitioner in connivance with other accused persons, who were

party of such Power of Attorney, allegedly executing a fraudulent Power of Attorney and taken the money. As such, the Petitioner has been arrayed as one of the accused. The trial court taking into consideration all these facts and also going through the complaint, hence found a prima facie case against the Petitioner and taken cognizance against him and others.

6. Learned counsel for the Petitioner submits that the Petitioner being a Notary, he had done nothing. As such, the order of cognizance as well as the aforesaid proceeding against him be quashed.

7. But, as it appears that without a presence of a person, the Petitioner, being Notary, certified that the person was present before him and signed in his presence.

8. Considering the same, the ground on which the quashment of the order of cognizance as well as the aforesaid proceeding is sought for, is without any substance.

9. Hence, I am not inclined to entertain the prayer made in this petition.

10. As it is stated that the case of the year 1999 and the Petitioner has been prosecuted at a belated stage and also N.B.W.(A) has been issued against him, if the Petitioner surrenders before the Court in seisin over the matter within four weeks hence and makes a motion for bail, the Court in seisin over the matter shall allow him to go on bail on such terms and

conditions including the condition that he shall cooperate with the trial. Further with the observation that since it is a case triable by warrant procedure, liberty is given to the Petitioner to raise all such contentions at the time of framing of charge inasmuch as the evidence before charge with the cross-examination made by the accused persons, if any, vis-à-vis the contention of the parties has to be taken note of while framing the charge.

11. With the aforesaid order, this CRLMC stands disposed of.

(S. Pujahari)
Judge

DA

