

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2142 of 2022

Chandramohan Biswal

....

Petitioner

Mr.P.C. Jena, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. P.K. Rout, AGA

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

16.09.2022

Order No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashment of criminal proceeding in Special Case No.44 of 2021 arising out of Singla P.S. Case No.69 of 2021 pending in the file of learned Special Judge under SC/ST Act, Balasore on the grounds stated therein.
3. Perused the copy of the FIR at Annexure-1 and copy of the charge-sheet as at Annexure-2.
4. Learned counsel for the petitioner submits that no case under Section 3(1)(r)(s) and 3(2)(va) of SC/ST (PA) Act are made out against the petitioner, inasmuch as, no documentary evidence has been collected during investigation in support thereof and in the meantime charge-sheet has been filed. It is further submitted that except one of the offences under Section 427 IPC, the other offences are not made out and therefore, the criminal proceeding in Special Case No.44 of 2021 should be quashed which is objected by learned

counsel for the State on the ground that prima facie a case is made out, hence, it does not require any interference.

5. The Court perused the FIR and also the chargesheet as at Annexures-1 and 2. Considering the nature of allegations, the Court is of the view that the fact whether the informant is a Scheduled Caste or not and the other offence under Section 427 is really made out against the petitioner shall be examined during the trial. In other words, having regard to the contents of the FIR at Annexure-1, there is prima facie case appears against the petitioner, therefore, the criminal proceeding initiated against the petitioner in Singla P.S. Case No.69 of 2021 cannot be quashed. However, the Court is of the view that the petitioner should raise all such grounds before the court below at the time of framing of charge which may be considered in accordance with law. Accordingly, it is ordered.

6. In the result, the CRLMC stands disposed of with a liberty granted to the petitioner to raise all the grounds as are available to him in law and also absence of documentary evidence with regard to the caste of the informant by filing an application in that regard seeking discharge which shall be considered by the learned Special Judge under SC/ST Act, Balasore as per and in accordance with law.

7. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge