

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV NO. 289 OF 2021

Manoj Kumar Sahu

....

Petitioner

Mr.B.R.Sahu, Advocate

-versus-

*M/s Maa Tarini Coal
Suppliers*

....*Opposite Party*

Mr.Anupam Dash, Advocate

CORAM:

JUSTICE S.K. PANIGRAHI

Order
No.

ORDER
02.02.2022

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1. This matter is taken up by virtual mode.

2. Heard learned counsel for the parties.

3.The petitioner in this revision has challenged the legality and propriety of the order dated 09.01.2020 passed by learned Ist Additional Additional Sessions Judge, Baripada in Criminal Appeal No.41 of 2015 (arising out of I.C.C. Case No.110 of 2013).

4. Learned counsel for the petitioner submits that the petitioner had preferred the aforesaid appeal against the conviction of S.I. for one year and compensation to the tune of Rs.7,50,000/- in I.C.C. Case No.110 of 2013 passed by the learned J.M.F.C., Baripada on 30.04.2015. The petition was filed under Section 311 of Cr.P.C. to recall and re-examine the complainant to check the veracity of certain documents after closure of the accused statement, and for furnishing other documents relevant to the transaction of the cheque in the concerned bank. However, the trial court did not receive the documents and directed to return back the said petition as the case was already posted for judgment. Being aggrieved by the said order, he filed

a petition under section-391 of Cr.P.C. for adducing further evidence before the appellate court. It was also dismissed by the said appellate court on the ground that the petition under Section 391 Cr.P.C. has been filed at a belated stage i.e. four years after the filing of the criminal appeal. Hence the petitioner has approached this court by way of this criminal revision.

5. Learned counsel for the opposite party submits that the petitioner had filed the petition under Section 391 of Cr.P.C. at the belated stage of hearing of the appeal for adducing further evidence. This is nothing but protracting the hearing of the appeal by taking different pleas since the year 2015 i.e. after four years of filing of appeal.

6. On perusal of the entire case records including the materials available on it, more particularly the orders of both the courts below, it is found that the petitioner has filed the petition under Section 391 Cr.P.C. at the belated stage i.e. four years after the filing of appeal. This was done with the sole motive of unnecessarily delaying the proceedings of the Court. Section 391 Cr.P.C. can only be invoked under exigencies and special circumstances, but not in ordinary course of hearing. The petitioner has been very casual in filing the application. Thus, the Court cannot entertain such application.

7. In view of above, I am not inclined to interfere with the order passed by the First Additional Sessions Judge, Baripada, Mayurbhanj

8. The Criminal Revision is accordingly dismissed.

9.As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7th January, 2022.

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