

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2247 of 2022

Chaturbhuja Kamary

....

Petitioner

Mr. D.P. Dhal, Senior, Advocate

-Versus-

State of Odisha (Vigilance)

....

Opposite Party

Mr. Niranjana Maharana, SC for Vigilance Department

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

21.09.2022

Order
No.

02.

1 Heard learned Senior Advocate appearing for the petitioner and learned counsel for the Vigilance department.

2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner assailing the order of cognizance dated 6th July, 2022 and the consequential orders passed in connection with in G.R. Case No.16 of 2019 corresponding to Berhampur Vigilance P.S. Case No.33 of 2019 pending in the file of learned Special Judge (Vigilance), Phulbani on the grounds stated therein.

3. Perused the copy of the FIR and other connected documents including the charge sheet which is at Annexure-2.

4. Mr. Dhal, learned Senior Advocate for the petitioner submits that an application for discharge was moved before the learned court below on the ground that there is no material on record to frame charge for the offence under the PC Act but then same was rejected by order dated 6th July, 2022. It is contended that the learned court below lost sight of the relevant facts and ultimately

rejected the application under Section 227 Cr.P.C. According to Mr. Dhal, learned Senior Advocate the demand of bribe by the petitioner cannot be believed since the wife of the deceased employee was receiving family pension and there was no occasion for such a demand and hence the allegation is outrightly false. It is further contended that the so called bribe amount was not recovered from the conscious possession of the petitioner rather it was found on the table kept under a file which was never on any demand as claimed by the complainant. With the above submission Mr. Dhal, learned Senior Advocate submits that the learned court below fell into serious error by passing the impugned order under Annexure-4 rejecting the plea for discharge and therefore, it is liable to be quashed.

5. Mr. Maharana, learned counsel for the Vigilance department on the other hand submits that on the basis of materials on record, the court below rightly declined to discharge the petitioner, who was trapped by the Vigilance team with the aid of the complainant as he had demanded bribe.

6. The Court does not find any error or illegality committed by the learned court below by passing the order under Annexure-4. The grounds which are being raised now at present before this Court are clearly factual which can only be examined during trial by the learned court below. In other words, the Court is not inclined to undertake any enquiry into the facts to find fault with the impugned order under Annexure-4. Rather, the Court is of the view that all such grounds which have been raised before this Court may be agitated, examined and adjudicated upon during trial.

7. Accordingly, it is ordered.

8. In the result, the CRLMC stands dismissed. However, the petitioner is at liberty to raise the above grounds before the learned court below in connection with G.R. Case No.16 of 2019 which shall on being urged shall be examined by the court concerned.

9. An urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

TUDU

