

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2339 of 2022

Suryanarayan Singh

.... Petitioner
Mr. P.K. Sahoo, Advocate

-Versus-

The Superintendent of Police, CBI,
ACB, Bhubaneswar

.... Opposite Party

Mr. S. Nayak, Advocate for CBI

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
25.11.2022

Order
No.

05.

1. Heard learned counsel for the petitioner and learned counsel for the CBI-opposite party.
2. The petitioner has approached this Court invoking inherent jurisdiction under Section 482 Cr.P.C. assailing the impugned order dated 22nd July, 2022 under Annexure-4 and the subsequent proceeding on the ground that there was no hearing later to the receipt of the closure report from the CBI before directing registration of the complaint.
3. A copy of the FIR is at Annexure-1 and the same is perused by the Court.
4. Learned counsel for the petitioner submits that he is the informant and at his instance the criminal action was set in motion and ultimately, it was investigated upon by the CBI which, however, resulted in submission of a closure report. It is further submitted that later to the closure report being filed by the CBI, a protest petition was filed by the petitioner but then the learned court below without hearing on the materials collected by the CBI and as to whether considering the same, a case is made out or not, the learned court below straightaway directed registration of

complaint and also fixed a date for recording of the initial statement under Section 200 Cr.P.C. which is not tenable in law.

5. Mr. Nayak, learned counsel for the CBI, however, submits that the petitioner is in no way affected since because the learned court below any how directed registration of the complaint later to the receiving and filing of the closure report by the CBI. It is further submitted that the petitioner himself prayed for time before the learned court below on 25th July, 2022 and it was fixed for recording his initial statement under Section 200 Cr.P.C. and under the above circumstances, there lies no reason or any justification for the Court to exercise inherent jurisdiction to interfere with the impugned order under Annexure-4.

6. The Court on perusal of the order sheets as at Annexure-4 finds that after the closure report received by the learned court below, protest petition was filed by the petitioner which was accepted and treated as the complaint and thereafter, by order dated 25th July, 2022, it was posted for recording the initial statement under Section 200 Cr.P.C. From the above, it is clear that there was no hearing by the learned court below later to the receiving of the closure report from the CBI on the anvil of filing of the protest petition by the petitioner. The Court does not find any request made or application to have been moved before the learned court below in that regard from the side of the petitioner.

7. In case of a final report/closure report as in the present case by the CBI, a court does have couple of options either to accept the said report and invite a protest petition to treat it as complaint and proceed according to law or it may also direct further investigation by the investigating agency considering the materials on record or even on the same material collected during investigation take cognizance of the offence or on such protest petition received from

the informant. In the instant case, since there was a protest petition, hence petitioner should have been heard him vis-à-vis the closure report instead of registration of a complaint, the Court is of the view that such an opportunity should be provided to him with a liberty to file an application in respect thereof.

8. Accordingly, it is ordered.

9. In the result, CRLMC stands allowed. Consequently, the impugned order dated 22nd July, 2022 passed in ICC No.28 of 2022 by the learned Special Judge (CBI-1), Bhubaneswar is hereby set aside. As a necessary corollary, in view of the conclusion reached at, the petitioner is allowed with a liberty to move an application before the learned court below for hearing on the closure report submitted by the CBI and in the event, any such application so moved by him, the learned Special Judge (CBI-1), Bhubaneswar shall consider the same and pass appropriate orders as per and in accordance with law.

10. A free copy of this order be handed over to Mr. Nayak, learned counsel for the CBI as prayed for.

(R.K. Pattanaik)
Judge

TUDU