

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2364 of 2022

Dilip Swain and Another

....

Petitioners

Mr. S.R. Mohapatra, Advocate

-Versus-

State of Odisha (Vigilance)

....

Opposite Party

Mr. N. Moharana, SC for Vigilance Department

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

19.09.2022

Order
No.

01.

1. Heard learned counsel for the petitioners and learned counsel for the Vigilance Department.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners for quashing of the criminal proceeding in VGR No.19 of 2021 arising out of Vigilance P.S. Case No.32 of 2021 pending in the file of learned Special Judge, Vigilance, Cuttack on the grounds stated therein.
3. Perused the copy of the FIR whereby Cuttack Vigilance P.S. Case No.32 dated 26th November, 2021 is registered under Section 13(2) read with 13(1)(a) of the Prevention of Corruption (Amendment) Act and other IPC offences.
4. Mr. Mohapatra, learned counsel for the petitioners submits that there is no case made out against the petitioners considering the allegation in the FIR. It is further submitted that petitioner No.1 was the Sarpanch and opposite party No.2 was the Panchayat Executive Officer at the relevant point of time and for installation of street lights there was a tender floated and quotations received and

thereafter work was accomplished but then, in course of vigilance enquiry loss to the tune of Rs.4,60,724/- to the Government was revealed for which FIR was lodged but in so far the petitioners are concerned, they do not have any involvement which is objected to by Mr. Maharana, learned counsel for the Vigilance Department. On a reading of the FIR, the Court finds that on different heads the cost of the articles have been mentioned along with the differential amounts and consequential loss, the Government said to have suffered, as a result. It is alleged that the petitioners and other officials of the Government in convenience did the mischief. Having regard to the nature of allegations, the Court is of the view that the mischief which has been alleged against the petitioners shall have to be examined in course of enquiry and trial. In otherwise, this Court is of the view that it cannot conduct a roving enquiry at this stage and go after the facts of the case in piecemeal manner to find out the role played by the petitioners. Therefore, the Court is not inclined to interfere with the criminal proceeding pending in the file of learned Special Judge, Vigilance, Cuttack.

5. Consequently, the CRLMC stands dismissed. However, in the event, the petitioners urge the grounds during enquiry and/or trial, it shall considered by the learned court below as per and in accordance with law.

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

(R.K. Pattanaik)
Judge