

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2431 of 2022

Kunu @ Satyaketan Mohanty

....

Petitioner

Mr. B. Sahoo, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

19.10.2022

Order
No.
02.

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 challenging the criminal proceeding in connection with G.R. Case No.498 of 2010 corresponding to C.T. Case No.782 of 2010 arising out of Bargarh Town P.S. Case No.178 of 2010 by the learned S.D.J.M., Bargarh on the grounds stated therein.
3. In fact, an FIR was lodged consequent upon which Bargarh Town P.S. Case No.178 of 2010 was registered under Sections 379, 411, 414 read with Section 34 IPC. In that connection, a preliminary charge sheet was filed against the petitioner as well as others keeping the investigation open in terms of Section 173(8) Cr.P.C.
4. Learned counsel for the petitioner submits that he is alleged to be the receiver of the stolen vehicle bearing registration No.OR-09D-9841 and it has been sold to his father by one Sailendra Sharma @ Murmu @ Shastri. It is further submitted that the seller of the vehicle has not been chargesheeted. It is claimed that the local

police is not able to trace out the above named accused and in so far as the vehicle is concerned, it has been sold to the petitioner's father, however, the petitioner has been implicated as an accused for having dishonestly received it from the seller. While claiming so, learned counsel for the petitioner submits that with such material on record, there is a bleak chance of conviction and therefore, the criminal proceeding as against the petitioner should be quashed. In support of such contention, an order dated 18th April, 2013 passed by this Court in CRLMC No.2972 of 2010 is referred to.

5. Mr. Praharaj, learned counsel for the State submits that petitioner has actual purchaser of the vehicle but did it in the name of his father, who is an elderly person and his involvement is on the strength of confessional statement of an accused. However, according to Mr. Praharaj, the vehicle was purchased in the name of the petitioner's father and stolen one having been sold by one of the accused persons, namely, Sailendra Sharma @ Murmu @ Shastri. Mr Praharaj submits that since the investigation is still on, the criminal proceeding vis-à-vis the petitioner cannot be quashed considering the nature of allegations made in the FIR and materials available on record.

6. Court perused the contents of the FIR and chargesheet, a copy which is at Anenxure-2. The petitioner is alleged of having received a four wheeler and pursuant to investigation, it was found that the vehicle was stolen and sold to the petitioner's father in 2010. Having regard to the nature of allegation and the fact that the petitioner is alleged of having dishonestly received the stolen vehicle from the other accused, who is not yet apprehended by the local police, the Court is of the view that as the investigation is still in progress, the criminal proceeding as against the petitioner cannot be

quashed. However, the Court is also the view that the ground which is raised now by the petitioner may be urged before the learned court below at the time of framing of charge.

7. At this juncture, it is drawn to the attention of the Court by Mr. Praharaj, learned counsel for the State that the investigation is so over and in the meantime, final chargesheet is submitted and the seller of the stolen vehicle has also been chargesheeted. Considering the above facts and material on record, the Court is not inclined to quash the proceeding against the petitioner, who is alleged of having received the stolen vehicle.

8. Accordingly, it is ordered.

9. In the result, CRLMC stands disposed of with a liberty to the petitioner to raise all such ground regarding his innocence even though the vehicle stated to have been sold in favour of his father at the time of framing of charge in connection with G.R. Case No.498 of 2010 corresponding to C.T. Case No.782 of 2010 arising out of Bargarh Town P.S. Case No.178 of 2010 and in the event so urged, the learned S.D.J.M., Bargarh shall do well pass and appropriate order in accordance with law.

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

(R.K. Pattanaik)
Judge

Tudu