

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2486 of 2022

Raja @ Sabyasachi Kaparda

....

Petitioner

Mr. S. Mishra-1, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.S. Mohapatra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

21.09.2022

Order
No.

01.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State.

2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashing of the order of cognizance vide Anenxure-5 passed in C.T. No.(Special) Case No.12 of 2018 pending in the file of learned A.D.J.-Cum-Special Judge, Talcher on the grounds stated therein.

3. Learned counsel for the petitioner submits that the petitioner is not responsible for the viral of the texts in the social media which has been alleged and that apart, though the mobile set was seized and has been sent to the laboratory for examination, no report was received back and still then, the charge sheet was filed and therefore, no case can be said to have been made out against the petitioner and hence, criminal proceeding which has initiated on the strength of the FIR shall have to be quashed. The learned counsel for the State however submits that considering the materials on record and the allegations contained in Annexure-1 about some texts to have been viraled allegedly by the petitioner, the court

below did not commit any wrong or error in passing the impugned order under Annexure-5 and therefore, it calls for no interference.

4. As such for having not report being received from the laboratory, the entire criminal proceeding cannot be quashed and for that, the petitioner would have opportunity seeking discharge at the appropriate time. In fact, the Court on a bare reading of Annexure-1 and the fact that the informant described in detail as to the circumstances under which the material was viraled which led to the lodging of FIR before the local police and having regard to the nature of allegations and considering the statements of witnesses recorded under Section 161 Cr.P.C., copies of which have been placed at Annexure-2, it is of the view that the order of cognizance under Annexure-5 cannot be set aside. The petitioner is however at liberty to claim discharge in absence of any scientific report which is claimed to be basis or foundation for initiation of the criminal action.

5. Accordingly, it is ordered.

6. In the result the CRLMC stands disposed of with the liberty granted to the petitioner to raise such ground seeking discharge at the time of framing of charge before the learned A.D.J.-Cum-Special Judge, Talcher in connection with C.T. No.(Special) Case No.12 of 2018, who shall on being so approached shall do well to pass appropriate order as per and in accordance with law.

(R.K. Pattanaik)
Judge