IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 405 of 2020

Sankar Lal Sahoo … *Petitioner*

Mr. Biswajit Nayak, Advocate

-Versus -

State of Odisha …. *Opposite Party*

Mr. P.Tripathy, Addl. Standing Counsel

CORAM:
JUSTICE SASHIKANTA MISHRA

ORDER
17.11.2022

Order No. 05.

1. This matter is taken up through hybrid mode.

2. Heard Mr. B.Nayak, learned counsel for the petitioner and Mr. P. Tripathy, learned Additional Standing Counsel for the State.

3. The petitioner is aggrieved by the Order dated 02.09.2020 passed by the learned S.D.J.M., Panposh, Rourkela in Criminal Misc. Case No. 166 of 2020 whereby the application filed by the petitioner under Section 457 of the Cr.P.C. for release of the seized goods in his favour was rejected.

4. The case was instituted on the basis of a complaint lodged by the ASI of Jalda Out Post on 10.02.2020 alleging that one Ranjit Sahu was involved in illegal iron scrap business and that he was transporting some stolen scrap materials in a truck. Accordingly, the godown of said Ranjit Sahu was raided wherein a truck loaded with the allegedly stolen iron scrap materials was found. The scrap materials weighed 4.950 Kgs. The case having been registered against the said Ranjit Sahu, he filed an application under Section 457 of the Cr.P.C. seeking release of the seized vehicle which was allowed.

5. The petitioner claims to be the owner of the iron scrap and therefore he filed an application seeking release of the same. Learned Court below, considering the materials on record held that

though there are materials to show payment of tax (CGST) by the petitioner yet in the absence of e-way bill, it is not possible to hold that the goods in question belonged to him.

6. Mr. Biswajit Nayak, learned counsel for the petitioner submits that his client in possession of the relevant vouchers and invoices showing purchase of the iron scrap as also the proof relating to payment of tax on such purchase.

7. It is also stated at the Bar that the invoices have been held to be not genuine as per information furnished by the CT and GST Officer, Rourkela. To this, Mr. Nayak submits that the matter has not been properly enquired and the nexus between the payment of tax and the seized goods can be easily ascertained if a deeper scrutiny is made. Such being the factual position, this Court deems it proper to remit the matter to the Court below with a direction to cause an inquiry into the matter through the Investigating Agency as also the Tax Department and to pass an order afresh in accordance with law.

8. It is needless to mention, if the Court is satisfied as regards the claim of ownership of the petitioner in respect of the seized iron scrap, necessary orders shall be passed on the application under Section-457 of the Cr.P.C.

9. With this observation, the CRLREV is disposed of.

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

(Sashikanta Mishra)
Judge

Balaram