

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2655 of 2022

Khirod Kumar Behera and another **Petitioners**
Mr. Mohendra Kumar Mohapatro, Advocate

-Versus-

State of Odisha and another **Opposite Parties**
Mr. S.S.Mohapatra, ASC, OP No.1
None for OP No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
12.10.2022

Order No.

01.

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 petitioners for quashing of the criminal proceeding in C.T. (Spl.) Case No.33 of 2020 corresponding to Kishorenagar P.S. Case No.170 of 2020 pending in the court of learned Special Judge, Athmallik and also the order of cognizance dated 9th April, 2021 on the grounds stated therein.
3. Perused the copy of the FIR and other relevant documents as at Annexures-1 to 3 and the impugned order of cognizance dated 9th April, 2021 which is at Annexure-4.
4. In fact, the FIR was lodged a case was registered as Kishorenagar P.S. Case No.170 of 2020 under Sections 341/323/506/34 IPC. However, after completion of investigation chargesheet under Sections 341/323/506/34/342 of IPC along with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC & ST (POA) Act was filed and accordingly, learned court below took cognizance of the said

offences and summoned the accused persons for their appearance vide its order dated 9th April, 2021.

5. Learned counsel for the petitioners submits that though initially a case was registered under the offences as made out from Annexure-1 but then, in the chargesheet, offences under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC & ST (POA) Act have been added and it is apprehended that if the petitioners appear in response to the summons issued by the court below, they may be remanded. It is claimed that since there was no case registered under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC & ST (POA) Act initially, therefore, the chargesheet cannot be sustained and hence, the order of cognizance is bad in law.

6. Mr. Mohapatra, learned Additional Standing Counsel for the State on the other hand submits that after investigation chargesheet has been filed which is based on materials on record therefore, it calls for no interference.

7. Learned counsel for the petitioners submits that the petitioners should be directed to appear in response to the summons issued by the Special Court and allowed to go on bail since all of them had been granted anticipatory bail by this Court in ABLAPL No.15007 of 2020 disposed of on 8th January, 2021.

8. This Court is of the view that the grounds which have been raised by the petitioners at present may be urged before the learned Special Judge, Athmallik at the time of framing of charge. However the Court feels it proper that the petitioners should appear before the learned court below and allowed to go on bail in connection with C.T. (Spl.) Case No.33 of 2020 arising out of Kishorenagar P.S. Case No.170 of 2020 subject to terms and conditions as would be fixed in the facts and circumstances of the case which would serve the purpose and meet the ends of justice. It is further directed in the event the petitioners raise all such grounds before the learned court

below, the same shall be considered for the purpose of discharge and orders as appropriate be passed in accordance with law.

9. With the above directions, the CRLMC stands disposed of.

10. Issue urgent certified copy of this order in course of the day as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

