

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2889 of 2022

Rajesh Gadodia

....

Petitioner

Mr. Pabitra Kumar Nayak, Advocate

-Versus-

State of Odisha (Vigilance)

....

Opposite Party

Mr. N. Moharana, ASC for Vigilance

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

04.11.2022

Order No.

- 01.
1. Heard learned counsel for the petitioner and learned counsel for the vigilance department.
 2. In the instant case, the challenge is as to the order of cognizance dated 5th April, 2019 passed by the learned Special Judge (Vigilance) Cuttack under Annexure-3 on the grounds inter alia that the same is not tenable in law which is therefore liable to be quashed in the interest of justice.
 3. Perused the copy of the FIR as at Annexure-1 and order of cognizance under Annexure-3.
 4. Basing on the written report, Cuttack Vigilance P.S. Case No.03 of 2021 was registered against the petitioner under Sections 468, 471, 420, 120-B IPC corresponding to T.R. No.11 of 2019 subsequently chargeheet has been filed which is at Annexure-2.
 5. Learned counsel for the petitioner submits that there has been no financial transaction which has taken place in the present case and therefore, the offence under the Prevention of Corruption

Act is not tenable in law and the petitioner has been falsely implicated in the present case under Sections 468, 471, 420, 120-B and 13(1) read with 13(1)(d) of P.C. Act which are not at all attracted to the case in hand.

6. In response to the above, Mr. Moharana, learned ASC for Vigilance Department submits that the order of cognizance has been passed almost three years back and there has been no explanation offered in that regard.

7. Considering the nature of offences alleged, the Court is of the view that the material evidence collected by the Vigilance Department and in order to ascertain role played by the petitioner, the nature of transaction and extent of involvement as the petitioner alleged to have facilitated transaction and sell of MS rod as is claimed by the Vigilance Department shall have to be examined during enquiry and trial as such the proceeding cannot be quashed in exercise of jurisdiction under Section 482 Cr.P.C.

8. However Mr. Nayak, learned counsel for the petitioner in course of hearing submits that at least liberty may be granted to the petitioner to raise all such ground at the time of framing of charge.

9. In view of the limited prayed so advanced, the CRLMC stands disposed of with liberty in favour of the petitioner to raise any such ground as are available to him in law seeking discharge before the court below and in case an application is so moved, the same shall be considered by the learned Special Judge (Vigilance), Cuttack in connection with T.R. No.11 of 2019 and pass appropriate orders thereon as per and in accordance with law.

10. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge