

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3111 of 2022

Khitish Kumar Nandi @ Babu

....
Petitioner
Mr. R.L.Pattnaik, Advocate

-Versus-

State of Odisha

....
Opposite Party
Mr. Tapas Ku.Praharaj, SC

CORAM:
JUSTICE R.K.PATTANAIK

ORDER
02.11.2022

Order No.

03.

1. Heard learned counsel for the petitioner and Mr. Praharaj, learned counsel for the State-opposite party.
2. Instant petition under Section 482 Cr.P.C. is filed at the behest of the petitioner for quashing of the proceeding pending before the court of learned 1st Additional Sessions Judge, Cuttack in S.T. Case No. 198 of 2021 corresponding to G.R. Case No. 2362 of 2020 arising out of Cuttack Sadar P.S. Case No. 555 of 2020 on the grounds stated therein.
3. Perused the copy of the F.I.R. which is at Anneuxre-1.
4. Learned counsel for the petitioner submits that there is no iota of evidence against the petitioner but he has been chargesheeted by the local police. While claiming so, learned counsel for the petitioner refers to the statements of the witnesses recorded under Section 161 Cr.P.C. so also the confessional statement of the

petitioner recorded under Section 27 of the Indian Evidence Act. It is contended that there are number of discrepancies in the evidence collected by the I.O., inasmuch as, the addresses for the witnesses whose statements have been recorded by the police are fake and that apart, the investigation has not been conducted properly and therefore, the criminal proceeding stands vitiated.

5. In response to the above, Mr. Praharaj, learned counsel for the State submits that there are incriminating materials collected in course of investigation which are on record and clearly suggest the involvement of petitioner. It is, therefore, submitted by Mr. Praharaj, learned counsel for the State that on the grounds raised by the learned counsel for the petitioner, the proceeding cannot be quashed.

6. The Court cannot go into the details on the materials on record and cross verify the statements of the witnesses so also to examine the confessional statement under Section 27 of the Indian Evidence Act vis-à-vis the petitioner so as to reach at a conclusion one way or the other. The Court is aware of the limitations in exercise of jurisdiction of Section 482 of Cr.P.C. and also about the settled position of law laid down by the Apex Court in **State of Haryana & Others Vrs. Choudhury Bhajanlal & Others 1992 AIR SC 04**. In fact, the Court cannot examine and assess the materials by a piecemeal trial.

7. Mr. Praharaj, learned counsel for the State as well as learned counsel for the petitioner submit that the trial is underway. The learned counsel for the petitioner submits that the prosecution has already examined couple of witnesses in the meantime. In such view of the matter, since trial has already commenced, the Court is

not inclined to interfere with the criminal proceeding as in any case the evidence would be analyzed by the Sessions court.

8. Accordingly, it is ordered.
9. In the result, CRLMC stands dismissed.

(R.K.Pattanaik)
Judge