

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1739 of 2020

Sribatscha Kumar Dash

....

Petitioner

Mr. S.K.Sarangi, Senior Advocate

-Versus-

State of Odisha (Vigilance)

....

Opposite Parties

Mr. N.Maharana, SC for the Vigilance Deptt.

CORAM:

JUSTICE R.K.PATTANAIK

Order No.

ORDER

14.11.2022

11.

1. Heard Mr. Sarangi, learned Senior Advocate for the petitioner and Mr. Maharana, learned counsel for the Vigilance Department.

2. In the instant case, the petitioner has challenged the criminal proceeding in connection with T.R. No. 07 of 2007 pending in the file of learned 1st Additional Sessions Judge-cum-Special Judge, Vigilance, Bhubaneswar with a prayer to quash the F.I.R. corresponding to Vigilance P.S. Case No. 55 of 2003 besides the order of cognizance vide Annexure- 4 on the grounds stated therein.

3. A copy of the F.I.R. is at Annexure-2 and the same is perused by the Court.

4. Mr. Sarangi, learned Senior Advocate for the petitioner submits that the petitioner has been chargesheeted under the alleged offences in the year, 2006 and whereas, he happens to be the nephew of the principal accused. In fact, learned Senior Advocate submits that the search was meant and in respect of the principal accused, namely, Shri Sahadev Dash and in that

connection, the house of the petitioner was searched as well which is evident from Annexure-1 and thereafter, the petitioner was chargesheeted. It is submitted to the Court that at present, the trial is under way and on the verge of completion. It is fairly conceded by Mr. Sarangi, learned Senior Advocate for the petitioner that there has been some amount of delay in approaching the Court.

5. Mr. Maharana, learned counsel for the Vigilance Department submits that by the time the petitioner approached this Court in 2020, the trial had already begun.

6. A copy of the deposition of the I.O. which is at Annexure-5 is made to go through and read out by Mr. Sarangi, learned Senior Advocate for the petitioner to satisfy to the Court that he had no knowledge with regard to the manner of search which was conducted in the house of the petitioner on 12th June, 2003. However, considering the fact that the I.O. has been examined and that the trial is at the fag end and likely to be over at any time, the Court is of the view that at this distant point of time, it is not inclined to consider any such aspect which has been raised and highlighted upon at present for considering whether the criminal prosecution vis-à-vis the petitioner can be sustained in law or not. The Court is, however, of the view that the petitioner in any case shall have liberty to participate and if necessary he may apply the learned court below seeking recall of the I.O. or any other witness for that matter to confront such facts in order to prove his innocence vis-à-vis the allegation of being in possession of disproportionate assets for which he has been chargesheeted.

7. Accordingly, it is ordered.

8. In the result, CRLMC stands disposed of with a liberty granted to the petitioner to move the learned 1st Additional Sessions Judge-cum-Special Judge, Vigilance, Bhubaneswar in connection

with T.R. No. 07 of 2007 by making application if at all felt necessary for the purpose of recall of I.O. who was examined as P.W.1 so as to confront him such mitigating facts which stand in his favour and in the event any such application so moved, the Court shall consider the same on merit and pass appropriate order as per and in accordance with law.

9. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

