

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3393 of 2022

Rasmesh Kumar Agrawal

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Petitioner

Mr. B.P. Pradhan, Adv.

Vs.

State of Odisha (Vigilance)

.....

Opposite Party

*Mr. N. Moharana, A.S.C.
(For Vigilance Department)*

CORAM:

JUSTICE SAVITRI RATHO

ORDER

08.12.2022

Order No.

01.

(Through hybrid mode)

1. This application under section 482 of the Code of Criminal Procedure has been filed by the petitioner praying for quashing the order dated 21.07.2022 passed by the learned Special Judge (Vigilance), Bolangir and G.R. Case No. 32 of 2015 taking cognizance of the Indian Penal Code (in short “the IPC”) offences punishable under Section 468/471/ 420/120-B of the IPC so far as the petitioner is concerned and with further prayer to quash the criminal proceeding initiated against the petitioner vide Sambalpur Vigilance P.S. Case No. 110 of 2015 corresponding to the G.R. Case No.32 of 2015 on the file of the learned Special Judge, Vigilance, Bolangir.

2. Sambalpur Vigilance Case No 110 of 2015 had been registered under Sections 13 (2) read with Section 13 (1) (c) (d

) of the Prevention of Corruption Act , 1988 and Section 468/471/420/120-B of the IPC . After investigation and submission of chargesheet dated 23.12.2021 (Annexure 2) was filed and cognisance of the offences has been taken vide order 21.07.2022 .

3. The prosecution allegations in brief are that the co-accused Chaturbhuj Sandha, Secretary of Tarava Service Cooperative Society, has misappropriated Govt. Money to the tune of Rs. 15 lakhs by abusing his official position showing purchase of paddy from sixteen ineligible farmers during Kharif Marketing season (KMS) 2013-14. After getting such information, the informant enquired into the allegations and during inquiry, he found that one Chaturbhuj Sandha has been working as Secretary Service Cooperative Society, Tarva under BDCC Bank Ltd. Tarva, since 19.04.2012. During Kharif Marketing Season (KMS) for the year 2013-14 he purchased paddy 65015.53 quintal from 858 farmers and issued cheques in their name. He has handed over the paddy to different tagged Rice Millers for custom milling and maintained paddy purchase register, cheque issue register, transit pass and paddy advice slip in support and said paddy procurement from the farmers and dispatch to millers. During inquiry he found that the Secretary of Service Cooperative Society, Tarava, has

purchased paddy in the name of persons who do not have valid Farmer's Identity Cards (FIC). Secretary has also purchased paddy from farmers who have no sufficient land to yield more than 10 to 20 quintals of paddy and some of them are also landless. Secretary of said Service Cooperative Society by putting fake FIC numbers in the Paddy Purchase Register has shown purchase of huge quantity of paddy from them. Out of total purchase of paddy i.e. Q. 65015.53 kg, Secretary has purchased 20,915.20 quintals of paddy at the rate of Rs.1310/- per Kg from 16 number of the farmers and issued cheques to them. Out of 16 number of farmers, 5 number of farmers have no landed property and 5 farmers have less than 3 Ac. of land and rest 6 farmers are also not capable enough to yield such huge quantity of paddy to sell. Thus, 16 ineligible persons shown to have sold paddy in fake FIC or in the FIC of other persons. After verification of account statements of said 16 persons, it is ascertained that lakhs of rupees have been withdrawn by one Ramesh Agrawal of Tarava (Petitioner). Mr. Agrawal (Petitioner) used to give money in advance to farmers at the time of cultivation of paddy. Thereafter, he purchased the paddy from them after harvesting at a lower cost. Mr. Agrawal sold the paddy at different PACS in the name of

above noted 16 ineligible farmers.

It was found during investigation that Mr Ramesh Agrawal (present Petitioner) was working as Agent of some Rice Mills of Bolangir as well as Subarnapur District. At the time purchase of paddy at PACS, he with the help of Secretary of the PACS managed to make false entries about purchase of paddy, delivery of paddy to different Rice mills and receipt of the same at Mill point for which he earns huge commission. Further in connivance with the Secretary and some of the so called farmers, had shown the above fake transactions of paddy in pen and paper . The Petitioner had opened Bank Accounts in the name of the above 16 farmers and withdrawn money from their Bank Accounts by taking the signature of the so called farmers in the cheques . By this process, the Secretary of Service Co-operative Society along with Mr. Agrawal (Petitioner) had connived together and manipulated official records and cheated the Govt.

4. Mr. Pradhan, learned counsel for the petitioner submits that the only allegation against him that he has withdrawn the money which has been deposited in the accounts of the sixteen farmers who allegedly did not have any land or possessed very little land which was not sufficient for producing the paddy which has been

sold by them to the Government. Even assuming that the allegation against the petitioner are true, no case is made out for proceeding against him for the above offences in as much as is he is neither a farmer nor a miller. No loss has been caused to the Government by any act of his .

5. This contention is vehemently resisted by Mr. Moharana, learned Additional Standing Counsel (Vigilance), who submits that the petitioner has connived with co-accused persons who are public servant and farmers millers to commit the crime . As a result of their actions , money has been released in favour of persons not entitled to receive the same resulting in loss to Government. As a result of their conspiracy and actions , genuine farmers have been deprived of their right to sell the cultivated paddy at the PACS and had to dispose it of at a low cost to paddy brokers and businessmen. Therefore, there is a prima facie case against the petitioner to face the trial. He further submits that in **CRLMC No.2260 of 2022** filed the main accused, Chaturbhuja Sandha , by order dated 24.11.2022 passed in, this Court directed the learned Special Judge (Vigilance), Balangir to frame charge and commence trial expeditiously.

6. Considering the submission of the counsel , nature of

allegations and the scope of exercise of power under Section 482 of Cr.P.C., I do not think it would be proper to examine the statements of the witnesses and the allegations against the petitioner in a threadbare manner at this stage especially when direction has been issued by this Court in the case of a co accused to frame charge and commence trial expeditiously and as the petitioner if so advised can raise all his contentions at the time of framing of charge .

7. So this application is disposed of granting liberty to the petitioner , to raise his contentions at the time of framing of charge. If such application is filed , the learned trial court shall do well to consider it in accordance with law.

8. The CRLMC is disposed of with the aforesaid observation .

9. Issue urgent certified copy as per rules.

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(SAVITRI RATHO)
JUDGE