

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.505 of 2021

Deepak Kumar Agarwal

.... ***Petitioner***
Ms.Sujata Jena, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.03.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State.
3. The Petitioner in this revision has challenged the order of refusal of discharge by the learned Sessions Judge, Deogarh in S.T.Case No.10 of 2014 wherein the offence under sections 341,325, 326, 333, 307, 506, 120(B) and 34 of the Indian Penal Code read with section 25 and 27 Arms Act. has been challenged.
4. As it appears from the prosecution allegation, the owner of the Rice Mill had some quarrel with the injured C.S.O. as he had inspected his rice mill and found some irregularity in the same, so also on the very day the injured C.S.O. had also proceeded to the kerosene sub-wholesaler and found some irregularity. The matter was reported to the Collector to proceed against them. For that, there was some animosity between the C.S.O. with the Petitioner and the Rice Mill owner. It is also alleged that on the date of incident, the Petitioner in the Office of

C.S.O. came to know that the C.S.O. was proceeding on that date to Reamal Block Office, thereafter they left the spot and when the C.S.O. was proceeding to Reamal, he was brutally assaulted by some hirelings of the Petitioner and the person aggrieved by such inspection of the kerosene sub-wholesalership where illegality was found.

5. Learned counsel appearing for the Petitioner submits that the Petitioner going to the CSO Office being the kerosene wholesaler and also enquired about the CSO is not something peculiar and incriminating. For the said reason, it cannot be said that on the illegality committed by the Petitioner as it was reported by C.S.O. he engaged the hirelings, who assaulted the C.S.O. The material on record therefore being not sufficient enough to indict the Petitioner to have hatched a conspiracy, the court could not have proceeded against the Petitioner refusing to discharge him.

6. However, learned counsel for the State would submit that the conspiracy is hatched in secrecy. No direct material is available always. The aforesaid material is sufficient enough to proceed against the Petitioner. Hence refusal to discharge the Petitioner cannot be found fault with.

7. On consideration of the aforesaid facts and the submissions made even if conspiracy is hatched in secrecy and no direct evidence is available but some circumstances must be there to proceed against a person in a charge of conspiracy. A previous animosity is not sufficient to proceed with a charge of conspiracy. Besides the same, some more incriminating circumstances must be there to indict a person in charge of conspiracy. Hence, this Court is of the opinion that the circumstance that is brought to the notice of the Court is not sufficient enough to proceed against the Petitioner in the aforesaid case.

8. Accordingly, this revision is allowed. Consequently the proceeding against the Petitioner in S.T.Case No. 10 of 2014 pending

in the Court of the learned Sessions Judge, Deogarh stands quashed. However, the aforesaid quashment of the charge shall not preclude the court, if during the trial any other evidence is brought to record showing the indictment of the present Petitioner, to summon him as an accused in exercise of the power under Section 319 Cr.P.C. and proceed against him inasmuch as the aforesaid is the settled position of law.

9. Urgent certified copy of this order be granted on proper application.

RKS

