

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2790 of 2021

Subas Singh

....

Petitioner

-versus-

State of Odisha

....

Opposite Party

CORAM: JUSTICE S. PUJAHARI

ORDER

29.07.2022

Order

No.

04.

- 1.** This matter is taken up through hybrid mode.
- 2.** This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 7th December, 2010 passed by the learned S.D.J.M.(S), Cuttack in G.R. Case No.378 of 2009 wherein cognizance of the offences under Sections 147/148/452/427/353/506/149 of the I.P.C. read with Section 3 of the P.D.P.P. Act, Section 7 of the Crl. Law Amendment Act, Section 96 of the Odisha Urban Police Act (in short "OUP Act") and Section 59(1) O.U.P. Act has been taken against him, as well as entire proceeding.

3. Heard the learned counsel for the Petitioner and the learned counsel for the State-Opposite Party.

4. From the prosecution allegation, it reveals that the Petitioner being a member of CPM, a political party, organized a rally in protest against the eviction of small dwellers and led the rally to Collectorate office where some of the members became violent, forcibly entered into the office of the Collectorate by breaking the police cordon and damaged furniture, notice board, name plate etc. by means of lathis. As such, the Petitioner indicted in this case.

5. There is no material to show that the Petitioner was armed with lathi much less any deadly weapon while leading the Rally or approaching the office of the Collectorate or to have participated in the alleged overt acts of breaking the door or furniture or of any mischief. Further, at the relevant time he was said to be a member of a political party, and led a protest

Rally against eviction of small dwellers in the locality.
The incident dates back to the year 2009.

6. Learned counsel for the Petitioner submits that the aforesaid case was falsely foisted against the Petitioner when he in exercise of his democratic right was leading a rally of protest for public cause without having an iota of personal interest or benefit.

7. Having heard both the sides and taking note of the facts and circumstances as depicted from record and also taking note of the old age of the proceeding, this Court is of the opinion that continuance of the prosecution being prejudicial to the petitioner needs to be quashed against him.

8. Accordingly, the CRLMC is allowed and the impugned order as well as the prosecution qua the petitioner in G.R. Case No.378 of 2009 in the court of the learned S.D.J.M.(S), Cuttack stands quashed.

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

(S. Pujahari)
Judge

DA/MRS

