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IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 92 of 2024

Neelakantha Sahu @
Nilakantha Sahu

Appellant

Mr. Sanjay Kumar Pradhan,
Advocate

-versus-

State of Odisha (Vigilance)

Respondent

Mr. Sangram Das
Standing Counsel (Vigilance)

CORAM:

THE HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Hearing & Judgment: 02.07.2025

1. Delay in preferring this Revision is condoned.
2. Heard the learned counsels for both the parties.
3. By means of this revisional application, the Petitioner challenges the order dated 21.06.2022 passed by the learned Special Judge, Vigilance, Berhampur in G.R. Case No. 06 of 2019 (V), framing charge under Section 7 of the Prevention of Corruption (Amendment) Act, 2018.
4. The background facts of the case are that the Petitioner was working as Head Clerk at MKCG Medical College and Hospital, Berhampur. It is alleged that he demanded and accepted a bribe of ₹5,000/- (Rupees five thousand) from the complainant, a retired Professor, for processing his final withdrawal of GPF and other retirement benefits. Based on a written report lodged on 20.06.2019, a trap was laid the following day, resulting in



registration of Berhampur Vigilance P.S. Case No.12 of 2019. Upon completion of investigation, a charge sheet was filed under Section 7 of the Prevention of Corruption Act. The learned trial Court, by order dated 21.06.2022, framed charge against the Petitioner, leading to the present Revision.

5. Mr. Pradhan, the learned counsel for the Petitioner contends that the order of framing charge is unsustainable in law and suffers from non-application of mind and the learned trial court proceeded mechanically without considering that, on the date of the alleged trap, no work of the complainant was pending with the Petitioner. He places his reliance on documents obtained under the RTI Act, which show that the Complainant had applied for financial benefits only after the alleged incident, thereby falsifying the core allegation. Mr. Pradhan further argues that the Petitioner, being only a supervisory Head Clerk and not the dealing assistant, had no role in processing such files, and hence the allegation of bribe demand is inherently improbable. He finally prays that the impugned order be set aside, as the framing of charge was done despite absence of prima facie material.

6. Mr. Sangram Das, learned Standing Counsel for the State (Vigilance), in response, contends that the order framing charge does not warrant interference, as the materials on record disclose a clear prima facie case. It is submitted that the complainant, a retired government servant, specifically alleged demand and acceptance of ₹5,000/- by the Petitioner, which led to the successful trap and recovery of tainted money from his possession. He argues that the investigation also revealed the Petitioner's role in processing



retirement benefits, and the defence that no file was pending or that he was merely a supervisory clerk are disputed facts that can be brought up on trial. Mr. Das submits that at the stage of framing charge, the court need not evaluate the sufficiency of evidence but only assess whether a grave suspicion arise, and hence, the learned trial court rightly proceeded to frame charge under Section 7 of the Prevention of Corruption Act.

7. On perusal of the charge sheet, it clearly emerges that the Petitioner, while functioning as Head Clerk at MKCG Medical College and Hospital, Berhampur, was allegedly caught red-handed in a trap laid by the Vigilance authorities on 21.06.2019, following a specific complaint of bribe demand for processing post-retirement dues. The seizure of ₹5,000/- of tainted currency from the Petitioner, duly tallied and chemically confirmed during investigation, is corroborated by the statements of official witnesses, including the complainant and trap team members. While the Petitioner seeks to rely on documents obtained under the RTI Act to argue that no application was pending on the date of the trap, such assertions raise factual disputes that fall squarely within the domain of trial.

8. In the context of the challenge to the framing of charge, it is useful to recall the settled legal position laid down by the Hon'ble Supreme Court in the matter of *State of Rajasthan vs. Ashok Kumar Kashyap* reported in **AIROnline 2021 SC 210**, wherein it is reiterated –

“9.1 In the case of P. Vijayan (supra), this Court had an occasion to consider Section 227 of the Cr.P.C. What is required to be considered at the time of framing of the



charge and/or considering the discharge application has been considered elaborately in the said decision. It is observed and held that at the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. It is observed that in other words, the sufficiency of grounds would take within its fold the nature of the evidence recorded by the police or the documents produced before the Court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him. It is further observed that if the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228 Cr.P.C., if not, he will discharge the accused. It is further observed that while exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution, it is not necessary for the Court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the Court, after the trial starts.

9.2 In the recent decision of this Court in the case of M.R. Hiremath (supra), one of us (Justice D.Y. Chandrachud) speaking for the Bench has observed and held in paragraph 25 as under:

25. The High Court ought to have been cognizant of the fact that the trial Court was dealing with an application for discharge under the provisions of Section 239 CrPC. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the Court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. In *State of T.N. v. N. Suresh Rajan* [State of T.N. v. N. Suresh Rajan, (2014) 11 SCC 709, adverting to the earlier decisions on the subject, this Court held: (SCC pp. 721-22, para 29)



“29. ... At this stage, probative value of the materials has to be gone into and the Court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the Court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the Court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.”

9. The Hon’ble Supreme Court in the above decision and in various other matters, has categorically held that at the stage of framing of charge, the Court must proceed on the assumption that the prosecution material is true, and determine whether, taken at face value, it discloses the ingredients of the alleged offence. It is not permissible for the Court to conduct a mini trial or engage in a meticulous weighing of evidence at this preliminary stage. It was further clarified that the existence of suspicious circumstances alone is sufficient to frame a charge, and that a deeper scrutiny of probative value is to be reserved for trial.

10. In view of the foregoing discussion, the learned Special Judge has relied on the materials collected during investigation, including the recovery of the tainted bribe amount, witness statements, and trap proceedings, that disclose a prima facie case attracting the offence under Section 7 of the Prevention of Corruption Act, 1988. The trial Court has rightly exercised its



jurisdiction in framing the charge, and no interference is warranted at the revisional stage. As a result, this Court is of the considered opinion that the impugned order dated 21.06.2022 passed by the learned Special Judge, Vigilance, Berhampur does not suffer from any legal infirmity.

11. Accordingly, the CRLREV stands dismissed.

12. Needless to say, this Court has not expressed any opinion on the merits of the case. All arguments advanced by the Petitioner based on annexures and factual disputes, including reliance on documents obtained from RTI, relate to the defence and can be properly considered only during trial.

(Chittaranjan Dash)
Judge

High Court of Orissa, Cuttack.
Dated, the 2nd day of July, 2025.
S.K. Parida, ADR-cum-APS