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IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 4450 of 2023

Ranjan Kumar Khilar

....

Petitioner

Mr. P.S. Das, Advocate

-versus-

State of Odisha

....

Opp. Party

Mrs. S. Mohanty, ASC

CORAM:

THE HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Judgment: 02.07.2025

Chittaranjan Dash, J.

1. By means of the present application, the Petitioner seeks the indulgence of this Court praying to quash the order of cognizance dated 03.08.2015 in G.R. Case No.1102 of 2011 (arising of Ghatgaon P.S. Case No.148 of 2011) passed by the learned S.D.J.M., Keonjhar under Annexure-2.

1. The background facts of the case are that the Complainant, Basanta Kumar Sahoo, presented a Written Report before the IIC, Ghatgaon P.S. on 27.11.2011, alleging that on the previous night i.e. 26.11.2011, about 7 unknown persons committed dacoity in respect of one Truck bearing Regd. No. OR-2BED-2836, loaded with iron rods while the vehicle was on N.H. 215 near Kukurpota bridge on the point of a pistol. On the basis of such complaint, the Ghatgaon P.S. Case No. 148 of 2011 was registered and



investigation commenced. Upon completion of the investigation, the Charge-Sheet was submitted implicating the present Petitioner as one of the accused in connection with the offences under Sections 395/412/109 of IPC, r/w. Section 25 of the Arms Act.

2. The learned S.D.J.M., Keonjhar vide order dated 03.08.2015 having found material against the Petitioner took cognizance to proceed against the Petitioner. The relevant portions of the impugned order reads as follows:-

“.....Perused the FIR, charge sheets i.e CS. No. 78, dated 04.06.2012 and Supplementary C.S. No. 122, dated 28.07.2015, statement of witnesses recorded U/s-161 Cr.P.C and all the documents available therein. There is prima-facie case for the alleged offences U/s 395/412/109 IPC against the accused persons namely Dillip Kumar Behera, Ranjan Kumar Khillar and Nohian @ Narottam Khillar and U/s-395/412/109 IPC/25 Arms Act against the accused persons namely 1. Sonu @Asim Kumar Guha, 2. Chinu @ Chinmaya Jena, 3. Raju @ Sk. Suleman, 4. Sk. Essan, 5. Papun @ Ranjan Kumar Behera. 6. Jita@ Kalia @Jitendra Patra, 7. Prafulla Kumar Patra, 8. Papu @ Tapan Kumar Sethy, 9. Dipu @ Deepak Kumar Palei, 10. Rangadhar Dehory. Hence, cognizance of offence punishable U/s-395/412/109 IPC/25 Arms Act is taken. The accused persons namely 1. Dillip Kumar Behera, 2. Ranjan Kumar Khilar. 3. Nohian @ Narottam Khilar, 4. Sonu @



Asim Kumar Guha, 5. Chinu @ Chinmaya Jena, 6. Raju @ Sk. Suleman, 7. Sk. Essan, 8. Papun @ Ranjan Kumar Behera, 9. Jitu @ Kalia @ Jitendra Patra, 10. Prafulla Kumar Patra, 11. Papu @ Tapan Kumar Sethy, 12. Dipu @ Deepak Kumar Palei are on Court bail and the accused person namely Rangadhar Dehury is absconder. Hand over the record to G/C.”.

3. The learned counsel for the Petitioner, in course of hearing in this application, submitted that the Petitioner is an innocent person and no material is forthcoming against him either in the FIR or in the statement of the witnesses, involving him in any manner in any of the offenses alleged and therefore, the impugned order taking cognizance against the present Petitioner is palpably illegal and cannot sustain in the eye of law and this Court in exercise of the jurisdiction under Section 482 Cr.PC may quash the cognizance.

4. The learned counsel for the State, on the other hand, vehemently opposed the contentions raised by the learned counsel for the Petitioner and took this Court to the narration of the brief history given in the Charge-Sheet beside the statement of the witnesses.

5. The brief history of the case clearly implicates the Petitioner to be one of the key-accused in the alleged dacoity of the truck loaded with the iron rods. The truck and the stolen materials have been seized therein. The submissions of the learned counsel for the Petitioner that the involvement of the Petitioner simply on the basis of the statement of the co-accused that he got him introduced with



the person who purchased the stolen material is not the sole material. The case record reveals several facts that directly connect the Petitioner to the core of the alleged offence. He is stated to be one of the ten individuals who actively participated in the dacoity on the highway. Therefore, a strong prima facie case is well made out against him, and he cannot be absolved from the rigour of law at this stage.

6. The Hon'ble Apex Court in its decision in the matter of *State of Haryana vs. Bhajanlal* reported in 1992 Supp(1) SCC 335, has laid down the following guidelines for exercise of power under Section 482:-

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just



conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. In view of the above, this Court finds it pertinent to reiterate that while the power under Section 482 Cr.P.C. is to be exercised sparingly though it can be invoked to prevent abuse of the process of court where the allegations are patently absurd or manifestly attend to implicate a person without any foundational basis. In the case in hand, the name of the present Petitioner is found actively to have participated in the alleged dacoity, constituting the offences which requires appreciation of evidence. It is well settled that the pleas advanced by the Petitioner, which pertain to the sufficiency of evidence or suggest a probable defence, cannot be examined within the limited scope of interference under Section 482 Cr.P.C. at the pre-trial stage. Accordingly, this Court finds no ground to quash the order of cognizance.

8. As a result, this Court is of the considered opinion that there is prima facie material against the Petitioner to proceed in trial and this Court is not inclined to interfere with the impugned order which is just and proper. However, it is open to the Petitioner to



raise all possible permissible legal and factual plea at the appropriate stage including the stage of framing of charge in accordance with law.

The CRLMC is hence disposed of.

(Chittaranjan Dash)
Judge

Bijay