

Bijaya Kumar Kamani vs State Of Odisha Opposite Party on 1 February, 2022

Author: S.K. Panigrahi

Bench: S.K. Panigrahi

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV No.2869 of 2021
Bijaya Kumar Kamani Petitioner
Mr.Deepak Kumar Mohapatra, Adv.

-versus-
State of Odisha Opposite Party
Mr.M.K.Mohanty, ASC

CORAM:
MR. JUSTICE S.K. PANIGRAHI
ORDER

Order No. 01.02.2022

01. 1. This matter is taken up by virtual mode.

2. Heard learned counsel for the parties.

3. The petitioner has filed this application with a prayer to quash the FIR in connection with Badambadi Police Station Case No.142 of 2021 corresponding to G.R. Case No.664 of 2021 pending on the file of learned J.M.F.C(City), Cuttack for the offences under Sections 417/420/272/273 of the Indian Penal Code read with Section 51/52/57/59/63 of Food Safety Standards Act, 2006 read with Section 20(2) CORPA Act and read with Section 36 of Legal Metrology Act, 2009.

4. The prosecution in brief is that the petitioner along with others were collecting tobacco products from Kolkata through different transport services and were selling to different shopkeepers as distributors. However, the products were adulterated, substandard, misbranded and unsafe..

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5. Learned counsel for the petitioner submits that the name of the petitioner has not been mentioned in the F.I.R or the seizure list. The Police have no such power of investigating or seizing under Food Safety and Standard Act, 2006. If such case against the petitioner will continue then it will affect the independent authority of Food Safety and Standard Act, 2006. It is further submitted that the Gutkha products are not covered under Section 3(1)(j) of Food Safety standard Act, 2006. Hence, the entire allegations under the said Act and Indian Penal Code are completely unsustainable, unreasonable and the same is liable to be quashed.

6. Learned counsel for the State submits that all the averments made in the petition can be raised during course of trial before the court below.

7. In view of the above submissions and the facts of the case, this Court is not inclined to quash the FIR in connection with Badambadi Police Station Case No.142 of 2021 corresponding to G.R. Case No.664 of 2021 pending on the file of learned J.M.F.C(City), Cuttack.

8. The CRLMC is accordingly dismissed.

9. However, learned counsel for the petitioner is at liberty to raise all the issues as averred in this application before the trial court at the time of hearing of the case.

10. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout // 3 // of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7th January, 2022.

(S.K. Panigrahi) Judge LB