

Special Case No. 02/2019.

Order No. 06, dt. 27.02.2020 :-

Ld. P.P is present. Sole accused on C.B is present in court by filing hazira. Today is fixed for hearing petition filed by accused on 20.09.19. Heard both sides. Considered. Perused the petition. Considered. It is stated that from the written complaint as well as materials on record it will appear that there is no prima facie against the accused. On this ground, accused prayed for discharge.

At the time of hearing Ld. Lawyer for the accused reiterated the above facts. He submitted that there is no prima facie materials to disclose that the alleged act is committed by accused by fraudulent means and as such there is no ground to proceed against the accused. On this score, Ld. Lawyer for the accused referred a case reported in 2002 CRI. LJ 4364, Balkrishna Sharma Vs. State of Himachal Pradesh. Ld Lawyer also submitted that already accused has deposited sale proceeds of fish in the treasury. He also submitted that some fees were given to the labours as their remuneration.

Ld. P.P raised objection.

On perusal of record, I find that it has been alleged that accused who was Superintendent of Cooch Behar Correctional Home committed gross irregularities by cutting of solid branches of trees and severely trimmed to the skeleton in Cooch Behar District Correctional Home. It is further alleged that he lifted 200 kgs of fish from inside tank of Cooch Behar, District Correctional Home and sold outside without the permission of appropriate authority.

Any property situated inside the Correctional Home whether immovable or movable belongs to Government. If accused cut those trees or lifted fish from the tank situated inside Correctional Home and sell the same then prima facie it attracts offence u/s-409 of IPC. Whether accused had any fraudulent intention or not that can be ascertained only after trial. I have gone through the decision referred by Ld. Defence counsel. The decision referred by Ld. Defence counsel is not applicable in this case. C.D also reveals incriminating materials against the accused. In my opinion prima facie a case punishable u/s-409 of IPC is established against the accused. So, at this stage, I am not inclined to discharge the accused.

Hence, the petition filed by accused on 20.09.2019 praying for discharging him is rejected.

C.D be returned.

To 20.05.2020 for framing of charge.

Dictated & Corrected,

Judge Special Court-Cum-
Addl. Sess. Judge, 2nd Court
Cooch-Bihar.

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Addl. Sess. Judge, 2nd Court
Cooch-Bihar.

