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**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**TRPCRL No.3 of 2023 and batch**

**In TRPCRL No.3 of 2023**

**Prashanta Kumar Dash** ..... **Petitioner**

Mr. Rajeet Roy, Advocate

-versus-

**State of Odisha and others** ..... **Opposite Parties**

Mr. Janmejaya Katikia, A.G.A. for the State  
M/s. D. Pattnaik, Advocate for O.P. Nos.2 to 4

**In TRPCRL No.104 of 2022**

**Prashanta Kumar Dash** ..... **Petitioner**

Mr. Rajeet Roy, Advocate

-versus-

**State of Odisha and others** ..... **Opposite Parties**

Mr. Janmejaya Katikia, A.G.A. for the State

**In TRPCRL No.106 of 2022**

**Prashanta Kumar Dash** ..... **Petitioner**

Mr. Rajeet Roy, Advocate

-versus-

**State of Odisha and another** ..... **Opposite Parties**

Mr. Janmejaya Katikia, A.G.A. for the State

**In TRPCRL No.107 of 2022**

**Prashanta Kumar Dash** ..... **Petitioner**

Mr. Rajeet Roy, Advocate

-versus-

**State of Odisha and another** ..... **Opposite Parties**

Mr. Janmejaya Katikia, A.G.A. for the State

**In TRPCRL No.108 of 2022**

**Prashanta Kumar Dash** ..... **Petitioner**

Mr. Rajeet Roy, Advocate

-versus-

**State of Odisha and another** ..... **Opposite Parties**

Mr. Janmejaya Katikia, A.G.A. for the State

**In TRPCRL No.109 of 2022**

***Prashanta Kumar Dash*** ..... ***Petitioner***

Mr. Rajeet Roy, Advocate

-versus-

***State of Odisha and another*** ..... ***Opposite Parties***

Mr. Janmejaya Katikia, A.G.A. for the State

**In TRPCRL No.110 of 2022**

***Prashanta Kumar Dash*** ..... ***Petitioner***

Mr. Rajeet Roy, Advocate

-versus-

***State of Odisha and another*** ..... ***Opposite Parties***

Mr. Janmejaya Katikia, A.G.A. for the State

**In TRPCRL No.15 of 2023**

***Prashanta Kumar Dash*** ..... ***Petitioner***

Mr. Rajeet Roy, Advocate

-versus-

***State of Odisha and another*** ..... ***Opposite Parties***

Mr. Janmejaya Katikia, A.G.A. for the State

**CORAM:  
THE CHIEF JUSTICE**

**ORDER**

**14.07.2023**

**Order No.**

07.

**Dr. S. Muralidhar, CJ.**

1. The Petitioner, who is the same in all these transfer petitions, is a Director in M/s. Seashore Funds Management Private Limited, M/s. Seashore Securities Limited and is also associated with 13 Multipurpose Cooperatives of the Seashore Group. He has filed these petitions seeking transfer of several criminal cases pending in the courts of the SDJM and CJM of Dhenkanal (TRPCRL No.3 of 2023); the SDJM, Rourkela (TRPCRL No.104 of 2022); the JMFC,

Soro, District-Balasore (TRPCRL No.106 of 2022); the CJM, Nabarangpur (TRPCRL No.107 of 2022), the CJM, Jajpur (TRPCRL No.108 of 2022), the ASJ-cum-CJM, Ganjam, Berhampur (TRPCRL No.109 of 2022), the SDJM, Titilagarh, District-Balangir (TRPCRL No.110 of 2022) and the CJM, Sonepur (TRPCRL No.15 of 2023) to the court of the Special Judge, CBI, Bhubaneswar, Khurda.

2. Notice was issued in all these transfer petitions and barring a few of them, service is complete on the respective Opposite Parties/Complainants of each of the criminal cases.

3. The background to the above prayer as explained by the Petitioner himself is that a common allegation was made in the 19 FIRs which form subject matter of these transfer petitions and several others registered in different Districts in the State of Odisha against the Petitioner, his relatives and office bearers of the M/s. Seashore Group of Companies and Cooperative Societies regarding acceptance of moneys from various investors/depositors, which were then not returned to them. The genesis of the present set of cases is an order dated 9<sup>th</sup> May 2014 passed by the Supreme Court of India in Writ Petition (Civil) No.413 of 2013, pursuant to which FIR No.RC.49/S/2014-KOL came to be registered against the Petitioner and others on 5<sup>th</sup> June 2014 by the Central Bureau of Investigation (CBI). By the same judgment, the Supreme Court of India granted liberty to the CBI to conduct investigation in respect of all the cases registered against the Seashore Group of Companies

and also to undertake further investigation where charge sheet had already been filed.

4. The grievance of the Petitioner was that CBI chose to take within its ambit the investigation of only 22 of the FIRs leaving out 19 other FIRs which form subject matter of the present transfer petitions.

5. On completion of the investigation, CBI filed a charge sheet dated 7<sup>th</sup> March 2015 in the court of the Special CJM, CBI under Sections 120(B), 420, 409 IPC and Sections 4, 5 and 6 of the Prize Chits and Money Circulations Schemes (Banning) Act, 1978 (PCMCSB Act). One more FIR of B.N. Pur which is P.S. Case No.341 of 2013 was clubbed with the above 22 FIRs. However, 19 FIRs registered in different PSs in the various Districts in Odisha against the Petitioner and others of the Seashore Group were not taken over by the CBI.

6. Aggrieved by this, the Petitioner filed Writ Petition (Crl.) No.171 of 2018 in the Supreme Court of India for a direction to the CBI to take over “investigation of the left out cases”. On Petitioner’s own showing the said writ petitions were dismissed by the Supreme Court of India on 18<sup>th</sup> January, 2019. To quote the Petitioner’s own words in para 3 (h) “As a matter of fact, the fulcrum of investigation carried out by CBI concerns the alleged conspiracy on the part of the Petitioner and others in duping investors of their deposits through the ponzi firms set up by them.”

7. Again to quote the Petitioner in para 3 (g), it is averred that “although the allegations in the above 19 FIRs had the same spectrum as that of the one being investigated by the CBI, the Petitioner being aggrieved by the action of the CBI in failing to take over the investigation of 19 nos. of the FIRs filed a Writ Petition (Crl.) No.171 of 2018 before the Hon’ble Supreme Court ....”

8. In short, the case sought to be made by the Petitioner before the Supreme Court of India was that these 19 FIRs pertained to allegations which were no different from those in the 22 FIRs which were taken over by the CBI for investigation.

9. Mr. Rajjeet Roy, learned counsel appearing for the Petitioner relies on the judgment of the Bombay High Court in *Pramod Bhaichand Raisonni v. The State of Maharashtra, MANU/MH/0809/2019* where after discussing the provisions of Section 177 read with the provisions contained in Chapter XVII of the Code of Criminal Procedure 1973 (Cr.P.C.) (in particular Sections 219, 220, 221 and 223), the Bombay High Court directed that the trial of the 77 cases involving similar allegations against the Petitioners in those cases should be held in the same court of the Special Court (MPID, Jalgaon District) as that would be convenient not only to the prosecution, but also to the defence in those cases.

10. Mr. Roy submits that the present petitions also should therefore be allowed by directing that the cases pending in the different courts in the aforementioned various Districts of Odisha should all be directed now to be transferred to and heard by the Special Judge, CBI, Bhubaneswar, Khurda where the cases against the Petitioner

pertaining to the 22 FIRs taken over by the CBI for investigation is stated to be pending.

11. Mr. Janmejaya Katikia, learned Additional Government Advocate appearing for the State on the other hand submits that with a similar prayer already having been rejected by the Supreme Court of India by the dismissal of writ petition filed by the Petitioner as noted hereinbefore, this Court ought not to entertain the present prayer as that will run contrary to the order of the Supreme Court of India. He also refers to the decision in *State of Jharkhand v. Lalu Prasad Yadav (2017) 8 SCC 1* and the decision of this Court in *Pradeep Kumar Sethy v. State of Odisha (2021) 131 CLT 770* to urge that these cases cannot be said to have arisen out of the “same cause of action” and cannot be said to be pertaining to the “same offence” and therefore would require an individual trial to be held in respect of each such offence in respect of each investor already deposited.

12. The above submissions have been considered.

13. At the outset, it requires to be noticed that the facts in *Pramod Bhaichand Raisonni (supra)* did not involve the Petitioners there first approaching the Supreme Court of India with a similar prayer which was rejected by the Supreme Court of India. It must be noted here that in the present case, the Petitioner appears not to have sought to withdraw the writ petition filed by him in the Supreme Court of India with liberty to approach the High Court for a similar relief. This is significant because the same case that is sought to be made out here before this Court by the Petitioner was also sought to

be made out before the Supreme Court of India viz., that all the FIRs pertain to the “same spectrum of charges” involving similar allegations and therefore, CBI should be asked to take over even the “left out cases” i.e the 19 FIRs. That prayer was rejected by the Supreme Court of India. Consequently, it would not be proper for this Court to entertain the prayer that the cases arising out of those left out 19 FIRs should now be tried by the same court of the Special Judge, CBI, Bhubaneswar.

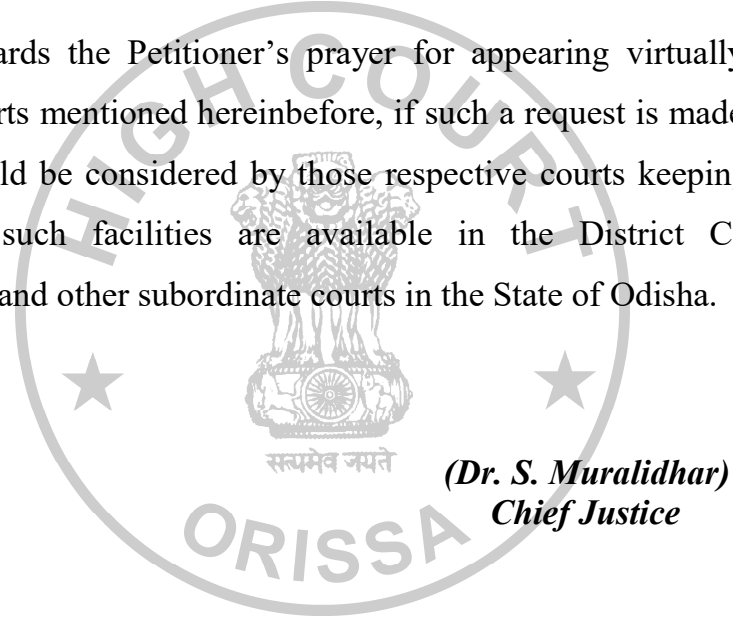
14. In a Special CBI court the prosecutor is the CBI. In the present case, in regard to the left out 19 cases it is obvious that the CBI would not be the prosecutor, but the local Police. Therefore, to ask such cases to be transferred to the CBI Court would be impermissible in law. It should be noted here that in *Pramod Bhaichand Raisonni (supra)*, the transfer was not ordered to a Special CBI court, but a Special Court (MPID, Jalgaon) which is very different from the prayer made in the present case.

15. Even as regards the arguments concerning ‘same offence’ ‘same transaction’, there is merit in the contention of Mr. Katikia relying on the observations in *State of Jharkhand v. Lalu Prasad Yadav (supra)* that have to be separate trials for each of the ‘offences’ alleged to have been committed by the Petitioner and others of the Seashore Group of Companies vis-à-vis individual depositors. It cannot be said that all the cases constitute the ‘same offence’ and part of the same “cause of action”. Be that as it may, with the Supreme Court already having rejected the prayer of the Petitioner, it would not be permissible for this Court to allow the prayer made

in these petitions as that would be permitting the Petitioner to overcome the aforementioned order of the Supreme Court indirectly by virtually seeking the same result viz., that all the left out cases should be tried before the same court of the Special Judge, CBI, Bhubaneswar.

16. For the aforementioned reasons, this Court is not inclined to accept the prayers made in the present petitions and they are accordingly dismissed.

17. As regards the Petitioner's prayer for appearing virtually in various courts mentioned hereinbefore, if such a request is made by him, it would be considered by those respective courts keeping in view that such facilities are available in the District Court Complexes and other subordinate courts in the State of Odisha.



S.K. Guin