

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.131 of 2012

Padmanava Nandi

....

Petitioner

-versus-

State of Orissa & others

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

18.04.2022

Order
No.

07.

1. This matter is taken up through Hybrid mode.
2. This application under Section 482 Cr.P.C. has been filed by the Petitioner-informant for quashment of the order dated 23.11.2011 passed by the learned S.D.J.M., Bhadrak in C.T. Case No.596 of 2011 wherein the learned S.D.J.M has rejected the petition filed by him to add the offence under Section 307 IPC.
3. Needless to say that the informant had not made any allegation with regard to the offence under Section 307 IPC against the accused in the FIR lodged. The Police has also not filed the charge sheet under Section 307 IPC. If the informant was aggrieved by the same, she could have filed a complaint indicating the fact that the materials are there under Section 307 IPC but without doing so, he has challenged the order of the learned S.D.J.M in not taking cognizance under Section 307

IPC. Therefore, this petition filed appears to be without substance.

4. Accordingly, this CRLMC stands dismissed but liberty is given to the Petitioner, if during trial any material disclosed regarding commission of offence under Section 307 IPC, to move the appropriate court to alter the charge notwithstanding the fact that no cognizance for the offence under Section 307 IPC has been taken. So even if such petition is not moved, the trial court shall do well to do the needful in such circumstances, if the evidence on record adduced discloses of an offence triable under Section 307 IPC.

5. With the aforesaid order, this CRLMC stands disposed of.

6. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

PKS