

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.573 of 2011

Laxmidhar Saw & others

....

Petitioners

Mr. D.P. Pattnaik, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.S.Mohapatra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

22.04.2022

Order No.

- 09.
1. Heard learned counsel for the petitioner and learned counsel for the opposite parties.
 2. This is an application under Section 482 Cr.P.C. filed by the petitioner assailing the impugned order dated 22nd January, 2011 passed in S.T. Case No. 29/2010 & 267/2009 by the learned Assistant Sessions Judge, Nilgiri on the grounds inter alia that the same is not sustainable in law and is, thus, liable to be set aside.
 3. Learned counsel for the petitioners submits that considering the statements of the witnesses and other material documents filed along with charge sheet, no case under Section 307 IPC is made out, inasmuch as, the victim received only two lacerated wounds which is revealed from the medical report. It is also submitted that only the name of the assailant is mentioning in the F.I.R. and there is no other overt act alleged against the petitioners and therefore, the impugned order under Annexure-1 of the learned court below is not tenable.
 4. Learned counsel for the State, on the other hand, submits that it is a case of mob violence during which large number of men and

women intercepted the vehicle of the victim and thereafter, committed the alleged mischief during which assault was caused on to his head, as a result of which, he suffered lacerated wounds. It is also submitted that this is not the stage where court is to undertake such an exercise, which can only be dealt with during the trial.

5. In course of hearing, a copy of the order passed in B.A.No.81/596 of 2005 passed by the learned Additional Sessions Judge, Balasore is referred to show that there is a finding to the effect that no offence of Section 307 of IPC is made out. It is countered by learned counsel for the State on the ground that such is only an observation and not on the merits of the case.

6. Having regard to the nature of allegations, circumstances leading to the alleged assault of the victim, notwithstanding the fact that he suffered couple of injuries which are simple in nature, the Court is however not inclined to interfere with the impugned order and further observes that the grounds upon which discharge was claimed can be raised during trial by the petitioners which in any case shall be duly taken cognizance of by the learned court below.

7. Accordingly, it is ordered.

8. The CRLMC is dismissed. The interim order dated 25th July, 2011 passed in M.C.No. 378 of 2011 as a result stands vacated.

(R.K. Pattanaik)
Judge