

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1383 of 2011

Sashi Bhusan Sadangi and another Petitioners

Mr. Dr. G. Tripathy, Advocate

-Versus-

State of Odisha

.... Opposite Party
Mr. D.R. Parida, ASC

CORAM:
JUSTICE R.K.PATTANAİK

ORDER
25.03.2022

Order No.

09.

1. Instant application under Section 482 Cr.P.C. is at the behest of the petitioners challenging the correctness of the order of cognizance dated 3rd August, 2008 (Annexure-3) passed in G.R. Case No.544 of 2010 arising out Berhampur Sadar P.S Case No.77(15) of 2010 pending in the court of learned S.D.J.M., Berhampur on the grounds stated therein.

2. Heard learned counsel for the petitioners and learned ASC appearing for the State.

3. The informant lodged an FIR i.e. Annexure-1 with regard to an incident dated 25th May, 2010 alleging therein the overt acts committed by the petitioners describing in detail the manner in which she and other family members were manhandled in presence of outsiders. After receipt of the FIR, Berhampur Sadar P.S. Case No.77(15) was registered under Section(s) 323, 341, 294, 354 and 506 read with 34 IPC and thereafter, charge sheet was filed,

whereupon, the learned court below passed impugned order under Annexure-3 which is presently under challenge.

4. According to the petitioners, as it has been pleaded, petitioner No.3 had lodged a written report at the P.S. on the very same day with respect to the alleged occurrence which has been registered as Berhampur Sadar P.S. Case No.78(16) under Section(s) 448, 294, 323, 341 and 506 read with 34 IP,C wherein, the informant husband is arrayed as the accused.

5. The learned counsel for the petitioners made the Court go through the contents of the FIR in order to show that there is no specific allegations vis-à-vis petitioner Nos.1 and 2, who are the parents of petitioner Nos.3 to 5 against whom the informant alleged the overt acts. It is contended that notwithstanding false allegations made against petitioner Nos.3 to 5, in absence of anything adversely stated regarding direct involvement of petitioner Nos.1 and 2, at least the proceeding should be quashed as against them.

6. Learned ASC contended that there is material in order to suggest the involvement of entire family of the petitioners considering which the learned court below has taken cognizance of the offences by passing the impugned order under Annexure-3 which is, therefore, should not be interfered with.

7. Gone through the contents of the FIR. The informant and her family were stated to be residing in the rented house owned by petitioner No.1, at the relevant point of time, when the alleged occurrence took place. The family of the informant was to vacate the rented house and in that connection, both parties were in

dispute in furtherance of which the alleged incident dated 25th May, 2010 took place. As earlier mentioned, the petitioners also lodged a counter FIR i.e. Annexure-2 for the same occurrence. In so far as, the allegations are concerned, on a bare perusal of Annexure-1, it is made to appear that the husband of the informant was assaulted by petitioner Nos.3 to 5 without any direct involvement being alleged vis-à-vis petitioner Nos.1 and 2. Precisely stated, as per the FIR, though both the families had differences for quite some time, as the informant was being misbehaved by petitioner Nos.1 and 2, who were unhappy with her for having friendly terms with their neighbours, but there has been no specific allegation against them showing their involvement during the incident dated 25th May, 2010. In other words, the informant clearly alleged the involvement and assault against her husband being carried out by petitioner Nos.3 to 5, who are the sons of petitioner Nos.1 and 2. No any specific material could be drawn to the attention of the Court by learned ASC to show any direct involvement of petitioner Nos.1 and 2 in so far as the alleged occurrence dated 25th May, 2010 is concerned.

8. In such view of the matter, the Court is of the considered view that having regard to the facts and circumstances of the case and referring to Annexure-1 which only shows the participation of petitioner Nos.3 to 5 in executing the assault against the informant's husband, the criminal proceeding vis-à-vis petitioner Nos.1 and 2 should be quashed as no prima facie case appears to have been made out against them.

9. Accordingly, it is ordered.

10. In the result, application under Section 482 Cr.P.C stands allowed to the extent indicated herein above. Consequently, the criminal proceeding in G.R. Case No.544 of 2010 arising out of Berhampur Sadar P.S. Case No.77(15) of 2010 pending before the court of learned S.D.J.M., Berhampur is hereby quashed against petitioner Nos.1 and 2 and dismissed against petitioner Nos.3 to 5.

(R.K.Pattanaik)
Judge



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