

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.934 of 2017

Taramani Das and others

....

Petitioners

M/s. H.N. Mohapatra, Advocate

-versus-

State of Odisha and another

....

Opposite Parties

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

M/s. G.N. Rout, Advocate and associates for O.P. No.2

CORAM:

THE CHIEF JUSTICE

Order No.

ORDER
25.11.2022

05. 1. The grievance in the present petition is regarding an order dated 26th October 2016, passed by the learned JMFC, Nimapara in G.R. Case No.381 of 2010 whereby the case was directed to be committed to the Court of Sessions. It appears that the cognizance was taken of the offences under Sections 341/294/323/366/376/506 and 34 of IPC in G.R. Case No.381 of 2010 corresponding to Gop PS Case No.78 of 2010.
2. At the outset, it must be mentioned that as far as the offence under Section 376 IPC is concerned, cognizance was taken only vis-à-vis Accused No.9-Sachikanta Das, who happens to have expired even before the filing of the present petition.
3. Admittedly, only because cognizance was taken of the aforementioned offence that the JMFC by the impugned order committed the case to the court of Sessions.

4. Now that Accused No.9 has since expired, as far as he is concerned, the criminal case stands abated. Since cognizance of the offence under Section 376 IPC was taken only vis-à-vis the said accused, with his having died, the basis for committing the case to the court of Sessions no longer exists.

5. Accordingly, the order dated 26th October 2016, of the JMFC, Nimapara insofar as it commits the case to the Court of Sessions is hereby set aside. The criminal case i.e., G.R. Case No.381 of 2010 corresponding to Gop P.S. Case No.78 of 2010 will now be listed before the JMFC, Nimapara District-Puri on 5th January 2023, for being further proceeded with in accordance with law. The interim order passed earlier stands vacated.

6. The CRLMC is disposed of in the above terms.

7. Issue urgent certified copy of this order as per rules.

(Dr. S. Muralidhar)
Chief Justice