

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2195 of 2012

Madhusudan Routray & others. ***Petitioners***

-versus-

State of Odisha. ***Opposite Party***

CORAM: JUSTICE S.PUJAHARI

ORDER
21.03.2022

Order No.

14. 1. This matter is taken up through Hybrid mode.
2. The petitioners in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) have prayed for quashing of the order of cognizance dated 12.03.1999 passed by the learned S.D.J.M., Puri in G.R. Case No.745 of 1998 taking cognizance of the offences under Sections 147, 148, 323, 294, 307, 506, 354, 149 of IPC and Section 9(b) of the Indian Explosives Act.
3. Heard the learned counsel for the petitioners and the learned counsel for the State.
4. Learned counsel for the petitioners submits that since some of the co-accused persons have already been acquitted in

the aforesaid case, the impugned order of cognizance as well as the consequential proceeding against the petitioners may be quashed. In this regard, he has placed reliance on a decision of the Apex Court in the case of ***Central Bureau of Investigation vrs. Akhilesh Singh***, reported in (2005) 1 SCC 478.

5. Learned counsel for the State, however, opposes the aforesaid submission of the learned counsel for the petitioners.

6. As it appears, the decision cited by the learned counsel for the petitioners in the case of ***Akhilesh Singh (supra)*** was rendered in different facts and situation. Therefore, the same cannot be applied to the present case, inasmuch as the evidence that is rendered in the trial of the co-accused is no evidence, as such the same is of no assistance to the present petitioner. So also, in a catena of decisions the Apex Court have held that even if in some cases, some of the accused persons have been acquitted and other co-accused persons have been convicted, the same is no ground for acquittal of other co-accused persons. Therefore, this Court is of the view that the prayer made for quashment of the order of cognizance as well as the consequential proceeding, qua the petitioners, is devoid of merit.

7. However, considering the submission of the learned counsel for the petitioners that since the co-accused persons in this case have already been acquitted, the trial Court may be directed to release the petitioners on bail on their surrendering,

this Court directs that if the petitioners surrender and move for bail in the aforesaid case before the Court in seisin over the matter within eight weeks hence, the Court in seisin over the matter shall allow them to go on bail on such terms and conditions as deemed just and proper. It is made clear that the trial Court shall take all effective steps to conclude the trial within six months from the date of receipt of the certified copy of this order. It is further made clear that if the witnesses are not produced by the prosecution, the trial Court should not await for any indefinite period for their appearance and must conclude the case taking all such effective steps to secure the attendance of the witnesses.

8. With the aforesaid order, this CRLMC stands disposed of. Interim order dated 21.12.2012 passed by this Court stands vacated.

9. A copy of this order be communicated to the Court below forthwith.

(S. Pujahari)
Judge

MRS