

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2903 of 2012

Manoj Sahu

....
Mr. B.K. Ragada, Advocate

Petitioner

-Versus-

State of Orissa

....
Mr. Sk. Zafrulla, ASC

Opposite Party

**CORAM:
JUSTICE R.K. PATTANAİK**

DATE OF JUDGMENT: 04.07.2022

1. The petitioner has filed the instant petition under Section 482 Cr.P.C. for quashing of the FIR in Rengali P.S. Case No.75(3) dated 12th August, 2012 registered under Section 120B IPC and the criminal proceeding corresponding to G.R. Case No.1066 of 2012 pending in the file of learned S.D.J.M. Jharsuguda on the grounds *inter alia* that a false case has been foisted alleging conspiracy to eliminate the complainant out of previous enmity between him and the other accused, namely, Narsingha Biswal and that apart, he cannot be prosecuted since Section 120B IPC by itself is not an offence unless accompanied any other offence and therefore, the proceeding is required to be quashed.

2. Briefly stated, the prosecution case is that the complainant lodged an FIR on 12th August, 2012 to the effect that previous year, there was a family quarrel with the other accused, who, thereafter, conspired with the petitioner to kill him and in that connection, even paid Rs. 20,000/- in advance with an agreement to pay rest amount of Rs.80,000/- later and such conversation between them was recorded by his nephew and was informed and since such a

conspiracy was hatched, he feared for his life. However, according to the petitioner, he is innocent and in no way involved with the alleged conspiracy but because of a false FIR lodged, he was being repeatedly searched by the local police. It is alleged that on account of previous enmity between the petitioner and the complainant such a false case has been foisted against him and furthermore, the allegations in the FIR and the statement of witnesses, even if are taken at their face value and accepted in its entirety, no prima face case is made out. With the above contention, the petitioner seeks the relief with the indulgence of the Court invoking its inherent jurisdiction.

3. Heard Mr. B.K. Ragada, learned counsel for the petitioner and Mr. Sk. Zafrulla, learned ASC for the State.

4. The complainant lodged the FIR on 12th August, 2012 and alleged that the petitioner and the other accused have planned to eliminate him and in that regard, the former has been paid Rs.20,000/- with a condition to pay the rest after its execution. Having received the said FIR, Rengali P.S. Case No. 75(3) was registered under Section 120B IPC. While the investigation is on, the petitioner approached this Court for quashing of the FIR and the proceeding in G.R. Case No.1066 of 2012. The question is, whether, on the grounds raised, such a relief can be granted in favour of the petitioner?

5. In **State of Haryana and others Vrs. Bhajan Lal and others (1992) Supp.1 SCC 335**, the Apex Court had the occasion to examine the scope of inherent power of the High Court in interfering with the investigation by the police and laid down certain guidelines and enunciated that the investigation of an offence is the domain of the police having the power to investigate as per the provisions of Chapter-XII of the Cr.P.C. and the Courts

are not justified in obliterating the track of investigation and further observed that if the allegation made in the FIR do not disclose or constitute any cognizable offence or the allegations are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused, under such circumstances, inherent power may be exercised. In **State of A.P. Vrs. Golconda Linga Swamy and another (2004) 6 SCC 522**, the Supreme Court highlighted upon the circumstances under which jurisdiction under Section 482 Cr.P.C. could be exercised (a) to give effect to an order under the Cr.P.C., (b) to prevent abuse of process of the Court; and (c) to otherwise secure the ends of justice reiterating the principles delineated in **Bhajan Lal** case (supra).

6. In the case at hand, the petitioner alleges that the complainant falsely foisted a case on account of previous grudge and for being inimically disposed of towards him as there was no conspiracy hatched. As per the complainant, the plan to eliminate him was informed by his nephew, who recorded the conversation in a mobile phone which is discernable from the contents of the FIR (Annexure-1). Prima facie, a case of criminal conspiracy is revealed on a plain reading of Annexure-1. Whether, the above allegation is true or false can only be examined during investigation and trial. No opinion can now be formed and the truthfulness or otherwise of the above allegation has to be ascertained with a full-fledged trial. Applying the standards laid down in **Bhajan Lal** and **Golconda Linga Swamy** (supra), the Court arrives at a conclusion that it is not such a case of having no material for which jurisdiction to quash the entire proceeding should be exercised. At the cost of repetition, it is concluded that the allegation regarding conspiracy and its genuineness may have to be examined during trial. So, since prima facie case is made out alleging criminal conspiracy, the view of the

Court is that the proceeding in G.R. Case No.1066 of 2012 cannot be quashed.

7. However, the contention of Mr. Ragada that the petitioner cannot be prosecuted only under Section 120B IPC for criminal conspiracy has to be accepted. The definition of criminal conspiracy in Section 120A IPC speaks that when two or more persons agree to do or cause to be done an illegal act or an act which is not illegal by illegal means, such an agreement is designated as criminal conspiracy with a proviso and explanation appended to it. In **Ram Narayan Popli Vrs. C.B.I. (2003) 3 SCC 671**, the Supreme Court elaborately discussed the elements of criminal conspiracy and the object sought to be accomplished. For the purpose of Section 120B IPC, the persons must have a conspiracy to commit an offence punishable under law with death, life or imprisonment for two years and more. In the instant case, the FIR has been registered under Section 120B IPC. The charge sheet has not yet been filed. Considering the stage at which the petitioner has approached this Court, it might be that at the end of investigation, either a final report or a charge sheet with the offence identified may be submitted and therefore, to demand that the case registered under Section 120B IPC should be quashed would be too premature. However, the facts remains, the petitioner cannot be solely charge sheeted under Section 120B IPC without the offence which was allegedly intended to be committed by them. With the above observation, the Court concludes that no ground for the present exists to quash the proceeding in G.R. Case No.1066 of 2012 pending closure of investigation by the police.

8. Accordingly, it is ordered.

9. In the result, the petition under Section 482 Cr.P.C. filed by the petitioner stands dismissed for the reasons stated herein before.

(R.K. Pattanaik)
Judge

TUDU

