

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV NO. 41 OF 2020

Sudarshan Panda

....

Petitioner

Mr. S.K.Nayak,
Advocate

-versus-

State of Odisha

....

Opposite Party

Mr.S.N.Roula, ASC

CORAM:

JUSTICE S.K. PANIGRAHI

ORDER

20.01.2022

Order
No.

03

1. This matter is taken up by virtual mode
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner has filed this revision challenging the order dated 19.12.2019 passed by the learned Asst. Sessions Judge-cum-Special Track, Bhadrak in S.T. Case No.69 of 209 of 2019 in rejecting the application under Section 227 Cr.P.C.
4. Learned counsel for the petitioner submits that there are no materials available against the petitioner to frame charges against him under Section 498-A/306 of the Indian Penal Code read with Section 4 of the D.P.A. Act for which he had filed an application before the court below under Section 227 Cr.P.C, with a prayer to discharge the petitioner from the commission of the aforesaid alleged offences. But without considering the statements of the witnesses under Section 161 Cr.P.C recorded by the Police during investigation, the learned court below has rejected his application.

5. On the other hand, learned counsel for the State submits that the petition is not maintainable in the eye of law. It is further submitted that at the time of consideration of charge, the statements of the witnesses under Section 161 Cr.P.C., post-mortem report and other relevant documents are taken into consideration to check whether a prima facie case has been made out against the petitioner or not. So the learned court below has rightly passed the order by rejecting the petition filed under Section 227 Cr.P.C..

6. On perusal of the statements of the informant and other witnesses, it is found that there exist prima facie materials indicating, the demand of dowry from the side of the petitioner and the continuous torture inflicted upon the deceased by the present petitioner along with his other family members leading to her death. The presumption of law here, goes in favour of the victim lady and against the accused. If the accused pleads innocence, he should adduce sufficient evidence during the trial to rebut the said presumption of law, but not at this stage. Further the offences as alleged against the petitioner are heinous in nature, the petition dated 02.12.2019 filed on behalf of the petitioner under Section 227 Cr.P.C. to discharge him from it being devoid of merit stands rejected.

7. The CRLREV is accordingly disposed of being dismissed.

8. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with

certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7th January, 2022.

(S.K.Panigrahi)
Judge

LB

