

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1729 of 2014

Sunil Kumar Acharya and another* *Petitioners

-versus-

Nilakantha Das* *Opposite Party

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
04.07.2022

09. 1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to set aside the order dated 15th March, 2014 passed by the learned S.D.J.M.(S), Cuttack in 1.C.C. No.700 of 2013 wherein the petition under Section 205 of Cr.P.C. filed by the Petitioner for dispensing of his personal attendance has been rejected.
3. Heard the learned counsel for the Petitioner.
4. As it appears, a prayer for dispensing with the personal attendance of the Petitioners was rejected vide the impugned order.
5. Petitioners have come to this Court challenging the impugned order on the ground that Petitioner No.1 is a student and Petitioner No.2 is a Government employee. As such, the court should be leniently considered their prayer.

6. However, the trial court taking note into consideration that the offence is triable by warrant procedure rejected such prayer.

7. As it appears, in the meanwhile, the Petitioner No.2, who was then 52 years, must have superannuated from service and Petitioner No.1 also could not have been continuing as a student. So the ground on which the petition under Section 205 of Cr.P.C. was filed does not survive any more.

8. Accordingly, without scrutinizing the merit of the order impugned, this Court dispose of this Criminal Misc. Case with a direction that if the Petitioners would surrender within six weeks hence before the court in seisin over the matter and make a prayer for bail, the court in seisin over the matter shall take into consideration of the law laid down in the case of *Satender Kumar Antil v. Central Bureau of Investigation & Anr., reported in 2021 (II) OLR (SC) -981*, do well to release them on bail. However, the aforesaid is without prejudice to the right of the Petitioners seeking dispensing with their personal appearance on subsequent occasion.

9. Interim order dated 4th April, 2014 passed in Misc. Case No.1294 of 2014 stands vacated.

(S. Pujahari)
Judge

DA