

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3204 of 2014

Gajendra Pradhan and others

....

Petitioners

Mr. S.K. Bhanjadeo, Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr. P.K. Muduli, AGA

Mr. B.K. Nayak, Advocate

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

15.07.2022

Order
No.

04.

1. Heard learned counsel for the petitioners and learned counsel for the State.

2. This is an application under Section 482 Cr.P.C. for quashing of the order of cognizance passed in 1.C.C Case No.5 of 2014 and issuance of non-bailable warrant of arrest on the grounds stated therein.

3. Learned counsel for the petitioners submits that the victim, namely, Kumari Pravati Mallik had lodged FIR later to which Nilagiri P.S. No.119 dated 13th March, 2012 was registered under Sections 363, 366(A), 376 and 506 IPC and Section 3 of the SC&ST (PA) Act and in that connection, the principal accused, namely, Satyadev Pradhan was granted bail. It is further submitted that thereafter the mother of the

victim filed the complaint i.e. 1.C.C. Case No.5 of 2014, wherein, the learned court of the S.D.J.M., Nilgiri after recording the initial statement of the complainant under Section 200 Cr.P.C. and holding an enquiry under Section 202 Cr.P.C. proceeded to take cognizance of the offence under Sections 366-A, 376(2)(f), 494, 506 and 120B read with 34 IPC and then issued NBW of arrest against the petitioners. The contention of learned counsel for the petitioners is that the victim initially lodged the FIR and case was registered but then thereafter she joined the company of the principal accused later to which her mother filed the complaint with self same allegation of rape etc. whereupon the learned court below passed the order of cognizance vide Annexure-3.

4. According to the learned counsel for the petitioners, no offences except Section 506 IPC can be said to have been made out against the accused persons, who are none other than the parents, namely, petitioner Nos.1 and 2 respectively, petitioner No.3 being the wife of the principal accused and petitioner No.4, a relative of the accused family. It is apprised the Court that in the complaint case, after the order of cognizance, NBWs were issued instead of summons being sent. It is contended that the learned court below could not have taken cognizance of all the offences vis-à-vis the petitioners especially in respect of offences punishable under Sections 366A, 376(2)(f) and 494 IPC.

5. On the other hand, learned AGA submits that the cognizance is taken always of the offences not against the offenders and therefore, order under Annexure-3 cannot be challenged on that ground and in any event the petitioners shall have opportunity to seek discharge at

the time of framing of charge and hence, the Court should not interfere with the impugned order at this juncture.

6. Of course considering the nature of offences alleged for which the court below has taken cognizance vis-à-vis the petitioners, they may not have been charged under Sections 366A, 376 and 494 IPC. In any case, the petitioners shall have opportunity at the time of framing of charge to challenge it. Having said that, the Court, without expressing anything on the merits of the claim, is not inclined to interfere with impugned order under Annexure-3 leaving it open for the petitioners to raise the above ground at the time of framing charge. For the present, the Court is thus of view that there is no need to interfere with the order of cognizance (Annexure-3).

7. Accordingly, CRLMC stands disposed of. However, keeping in view the nature of allegations made against the petitioners, who are the family members and relative of the principal accused against whom the learned court below has taken cognizance of offences vide the impugned order dated 24th March, 2014 and having regard to the fact that court issued NBWs may be for the reason that the offences are triable by a Sessions court, the Court is of the further view that they should be directed to surrender before the learned court below and go on bail with conditions.

8. Accordingly, it is ordered.

9. In the result, the CRLMC stands dismissed. However, the Court directs that the petitioners shall surrender before the learned S.D.J.M. Nilgiri on or before 5th August, 2022 and in such an event, it shall do well to pass appropriate order and release them on bail on

such terms and conditions as would be deemed just and proper in the facts and circumstances of the case.

10. Urgent certified copy of the order be granted as per rules.

(R.K. Pattanaik)
Judge

TUDU

