

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2757 of 2012

Bharat Bhusan Dash & Another

....

Petitioners

Mr. A.K.Das, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.N.Das, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

22.07.2022

Order No.

16.

1. Heard learned counsel for the petitioner and learned ASC for the State.

2. This is an application under Section 482 of Cr.P.C. filed by the petitioners challenging the order dated 25th July, 2012 passed in S.C. Case No. 20/21 of 2010 arising out of G.R. Case No. 52 of 2005 on the ground that no offence under Section 307 IPC is made out against the petitioners by considering the allegations in the F.I.R. and other materials.

3. An F.I.R. was lodged in connection with the alleged incident dated 6th May, 2005, whereafter, Dungurupali P.S. Case No. 25 of 2005 was registered under Sections 452/341/294/324/326/307/506/34 IPC and thereafter, investigation was commenced. As it appears, finally the charge sheet was filed against the petitioners and thereafter, the case was committed to the Sessions court for trial where the charges were framed by the impugned order dated 25th July, 2012.

4. It is submitted by the learned counsel for the petitioners that though discharge was claimed, it was rejected and then, the charges were framed against them notwithstanding the fact that the offence under Section 307 IPC is not made out. However, considering the F.I.R., it appears that the attempt to cause assault was by means of weapons like sword, bhujali etc., as a result of which, the informant sustained injuries on his person. The learned counsel for the petitioners submits that the injuries since are not grievous in nature, offence under Section 307 IPC cannot be attracted. It is settled law that whether any offence under Section 307 IPC is committed or not, it does not depend on the nature or extent of injuries sustained by the victim, rather, the manner in which the crime was committed decides to hold if an offence under Section 307 IPC is made out or not.

5. Having gone through the contents of the F.I.R., the Court finds that the informant was assaulted by means of sword and bhujali and alleged to have sustained injury. Having regard to the above facts and considering the submissions of the learned counsel for the parties, the Court is of the view that prima facie case under Section 307 IPC is made out taking into account the circumstances under which the crime was executed and therefore, no ground is made out to delete such an offence. In other words, the learned court below has rightly taken cognizance of the facts and framed the charges including under Section 307 IPC vis-à-vis the petitioners and therefore, it calls for no interference.

6. Accordingly, it is ordered.

7. In the result, the CRLMC stands dismissed.

(R.K. Pattanaik)
Judge