

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.58 of 2022

Rasmita Sethi and another ***Petitioners***
Mr. Arijeet Mishra, Advocate
-versus-
State of Odisha ***Opposite Party***
Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

30.06.2022

Order No.

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the petitioner as well as learned counsel for the State.
 3. The present revision application has been filed by the petitioners with a prayer to set aside the order dated 09.11.2021 passed in C.T.(Sess.) No.32 of 2021 arising out of Mangalpur P.S. Case No.582 of 2020 by the learned Sessions Judge, Jajpur. Further, the petitioners have prayed for a direction to the learned court below for fresh adjudication of the present case on the materials available on record.
 4. It is submitted by learned counsel for the petitioners that the learned court below vide order dated 09.11.2021 while framing charge has observed that I am of the opinion that there is a strong ground to presume that the accused persons have committed the

offence under Sections 498-A/302/304-B/306/406/120-B/34 of the I.P.C. and Section 4 of the D.P. Act. He further submits that the case can be said to be either suicidal or homicidal and further, the charge has been framed under Section 302, I.P.C. as well as Section 306, I.P.C.

5. Learned counsel for the petitioner submits that learned court below has committed gross error in the present case. He further submits that the materials available on record indicate that the victim committed suicide and at best, the case can be made for the offence under Section 306, I.P.C. along with other allied offences. However, learned court below while framing charges for the offences under Section 306, I.P.C. and other allied offences, has also framed charges under Section 302, I.P.C., which is not permissible in the eye of law. Therefore, the order dated 09.11.2021 framing the charge is against of law and the same is unsustainable. Learned counsel for the petitioner also submits that the materials available on record have not been considered by the learned court below while framing charge. However, on a question being asked by this Court as to how the charge under Section 302, I.P.C. as well as 306, I.P.C. could be framed in connection with the self-same incident, no satisfactory reply is coming forth.

6. Learned counsel for the State submits that the matter may be remitted back to the court in seisin over the matter for reconsideration in accordance with provisions of law.

7. Considering the aforesaid submissions made and keeping in view the facts and circumstances of the present case, this Court is of the considered view that framing of charge under the aforesaid sections is not quite convincing and needs to be reviewed by the

court in seisin over the matter by taking into consideration the materials available on record and in accordance with law after hearing both sides

8. In such view of the matter, the impugned order dated 09.11.2021 is hereby set aside and further the matter is remitted back to the court in seisin over the matter to re-examine the same and pass fresh order in accordance with law.

9. With the aforesaid observation, the CRLREV stands disposed of.

Urgent certified copy of this order be granted on proper application.



Jagabandhu