

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.441 of 2021

Madhabananda Acharya @ Madhab

Petitioner

Mr. S.R. Rout, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

30.11.2022

Order  
No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the opposite party-State.

2. Prayer in the present case is for quashing of the proceeding in G.R. Case No.1151 of 2016 corresponding to Marshaghai P.S. Case No.223 of 2016 pending in the file of learned S.D.J.M., Kendrapara on the grounds stated therein.

3. A copy of the FIR is at Annexure-1.

4. In fact, the report was lodged in the year 2016 in connection with incident of the year 2014 whereupon Marshaghai P.S. Case No.223 of 216 was registered under Section 379 IPC, whereafter, the chargesheet was filed against the petitioner.

5. Learned counsel for the petitioner submits that post submission of chargesheet, the learned court below issued has process. In fact, according to learned counsel for the petitioner, during and in course of the investigation on the prayer of the IO, the learned court below issued NBWA against the petitioner and thereafter, the chargesheet was filed. It is claimed that the incident was reported almost after two years and in so far as the petitioner is

concerned, he is innocent and has been implicated without any basis and therefore, the proceeding should be quashed which is objected to by Mr. Praharaj, learned counsel for the State on the ground that the petitioner is a habitual offender and involved in couple of more cases of similar nature.

6. At this juncture, learned counsel for the petitioner submits that the petitioner is involved for an incident of the year 2014 but notwithstanding, he is prepared to deposit the amount involved and subject to it, a direction may be issued for his release on bail in the event, he surrenders before the learned court below which is again objected to by Mr. Praharaj, learned counsel for the State.

7. On perusal the FIR, the Court finds that the incident is of the year 2014 but thereafter, in 2016, the identity of the informant could be ascertained by the petitioner later to which he lodged the FIR as he was reported to be involved in other cases. The Court considering the contents of the FIR and the fact that the local police submitted chargesheet, no case is made out for interference and rightly therefore, the learned court below took cognizance of the alleged offence and summoned him and proceeded further.

8. However, considering the submission of learned counsel for the petitioner that the petitioner is ready and willing to deposit amount of Rs.20,000/- which is claimed to have been removed from the ATM centre, CRLMC stands disposed of with a direction that the said amount shall be deposited by him before the learned court below on the date of surrender which shall be kept in fixed deposit in any nationalized Bank subject to the terms fixed by the court below. It is thus directed that the petitioner shall surrender before the court of learned S.D.J.M., Kendrapara on or before 20<sup>th</sup> December, 2022 in connection with G.R. Case No.1151 of 2016 corresponding to Marshaghai P.S. Case No.223 of 2016 and in the

event he surrenders and deposits the amount, the court below shall release on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case.

9. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)  
Judge

TUDU

