

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.947 of 2022

Rushman Mallick and Another

.... Petitioners  
Mr. N. Panda, Advocate

-Versus-

State of Odisha

.... Opposite Party  
Mr. S.S. Mohapatra, ASC

CORAM:  
MR. JUSTICE R.K. PATTANAİK

ORDER  
18.11.2022

Order  
No.  
03.

1. Heard learned counsel for the petitioners and learned counsel for the State. Mr. Chand, learned counsel for the opposite party No.2 is not present at the time of call.
2. Instant petition under Section 482 Cr.P.C. is filed for quashing of the proceeding in G.R. Case No.453 of 2014 corresponding to Belpada P.S. Case No.127 of 2014 besides order of NBWA dated 23<sup>rd</sup> December, 2015 passed by the learned S.D.J.M., Patnagarh on the grounds stated therein.
3. Mr. Panda, learned counsel for the petitioners submits that the petitioners have been chargesheeted for the offences under Sections 417, 493, 323, 506 read with 34 IPC and in so far as the allegation is concerned, the informant alleged sexual mischief against petitioner No.1 but then, they were in relationship and having prior acquaintance. It is further submitted that the chargesheet was submitted against the petitioners as absconders and considering the nature of allegations and fact that the informant has married in the

meantime elsewhere and blessed with a child, the criminal proceeding which is pending before the learned court below should be quashed in the interest of justice which is objected to by Mr. Mohapatra, learned counsel for the State on the grounds that allegation is serious in nature and that apart, the learned court below has taken cognizance of the offence under Section 376 IPC vide the impugned order under Annexure-1.

4. Having regard to the nature of allegation as revealed from the FIR consequent upon which Belpada P.S. Case No.127 of 2014 was registered under Section 376 IPC and other allied offences and that the petitioners though chargesheeted for other offences excluding Section 376 IPC which was however taken cognizance of by the learned court below vide the impugned order under Annexure-1, the Court does not find any reason to interfere with the criminal proceeding in G.R. Case No.453 of 2014.

5. However, having regard to the circumstances leading to the lodging of FIR by the informant and fact that petitioner No.1 did have acquaintance with her and that apart, the allegation vis-à-vis petitioner No.2 relates to ill-treatment meted out to the victim, the Court is of the view that since the chargesheet was filed in 2015 showing both as absconders, they should be directed to surrender before the learned court below so as to ensure early commencement of enquiry and trial.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands disposed of with a direction to the petitioners to surrender before the learned S.D.J.M., Patnagarh on or before 2<sup>nd</sup> December, 2022 in connection with G.R. Case No.453 of 2014 corresponding to Belpada P.S. Case No.127 of 2014

and in the event of their surrender, the court below shall release both of them on bail subject to conditions as deemed just and proper in the facts and circumstances of the case keeping in view the interest of opposite party No.2, namely, the informant.

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

(R.K. Pattanaik)  
Judge

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