

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1120 of 2022

Raibaru Harijan and Others

Petitioners

Mr. Ch. P.K. Mishra, Advocate

-Versus-

State of Odisha

.... Opposite Party

Mr. S.S. Mohapatra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

15.11.2022

Order
No.

01.

1. Defect be ignored.
2. Heard learned counsel for the petitioners and learned Additional Standing Counsel for the State.
3. In the present case, challenge is as to the criminal proceeding pending before the learned J.M.F.C., Umerkote in G.R. Case No.347 of 2021 corresponding to Dabugaon P.S. Case No.95 of 2021 on the grounds stated therein.
4. Learned counsel for the petitioners submits that the FIR by the informant under Annexure-1 is a counterblast to the report lodged under Annexure-2. It is submitted that by making false allegations against the petitioners, the informant lodged the FIR consequent upon which Dabugaon P.S. Case No.95 of 2021 was registered under Section 376(2)(n) IPC and other allied offences and while claiming so, he refers to the contents of Annexure-1 and the circumstances leading to the lodging of said report. It is made to suggest that the informant was in relationship with the petitioner No.2 and thereafter, she married and continued have relationship with the said accused and also became pregnant and that apart, the incident dated 21st May, 2021 was reported with the local police on 1st June, 2021 after considerable delay. Under the above

circumstances, the learned counsel for the petitioners submits that since a false case since has been registered, the criminal proceeding initiated against the petitioners should be quashed. Mr. Mohapatra, learned counsel for the State strongly objects to the contention of the learned counsel for the petitioners and submits that there is a serious allegation against the petitioners and in particular, petitioner No.2 for having committed of rape of the informant and therefore, the proceeding should not be interfered with in any manner whatsoever. It is apprised to the Court that the petitioners did approach this Court for anticipatory bail but the same was rejected. In response to the above, learned counsel for the petitioners submits that said fact of approaching the Court by filing ABLAPL No.7314 of 2021 and ABLAPL No.12599 of 2021 is disclosed and has not been suppressed.

5. Perused the FIR i.e. Annexure-1 and statement of the victim recorded under Section 161 Cr.P.C.

6. Considering the nature of allegations and the overt acts allegedly committed by the petitioners and more particularly, petitioner No.2, the Court is not inclined to interfere with the criminal proceeding pending before the learned court below. It is brought to the notice of this Court that the investigation is still underway and at this juncture, learned counsel for the petitioners submits that if the Court is not inclined to interfere with the criminal proceeding in G.R. Case No.347 of 2021, at least the petitioners should be granted the liberty to surrender before the learned J.M.F.C., Umerkote and apply for regular bail.

7. With the above limited prayer, CRLMC stands disposed of with a direction to the petitioners to surrender before the learned J.M.F.C., Umerkote in connection with G.R. Case No.347 of 2021 corresponding to Dabugaon P.S. Case No.95 of 2021 on or before 5th December, 2022 and in the event they surrender within the

stipulated time and apply for bail, the same shall be considered by the court on its merit and pass appropriate order during the 1st hour and in the event, the same is rejected, they shall approach the higher forum during 2nd hour and renew the prayer for bail and on being so moved, the learned Sessions court shall do well to pass appropriate order as per and in accordance with law.

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

(R.K. Pattanaik)
Judge

TUDU

