

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 531 of 2009

Niranjan Kar	...	Petitioner
		Mr. L. Samantray, Advocate
	- Versus -	
State of Orissa and others	...	Opposite Parties
		Mr. P.K. Maharaj, Addl. Standing Counsel

**CORAM:
JUSTICE SASHIKANTA MISHRA**

**ORDER
07.04.2022**

**Order No.
13.**

1. This matter is taken up through hybrid mode.
2. The petitioner, who is the informant in Pattamundai P.S. Case No.110 of 2008 corresponding to G.R. Case No. 230 of 2008 of the Court of learned J.M.F.C., Pattamundai, has preferred this Revision seeking to challenge the order dated 03.03.2009 passed by the said Court.
3. The brief facts of the case are that the petitioner lodged FIR before Pattamundai Police Station on 19.05.2008 alleging that the accused persons jointly assaulted him by means of a wooden plank and a crowbar causing grievous injuries on his head, arm and other parts of the body. It is further alleged that such assault was made with the intention of killing him. The FIR being registered, was followed by investigation and upon completion thereof, charge sheet was submitted under Sections 341/323/294/325/34 of IPC. The learned Court below took cognizance of the said offences vide order dated 19.01.2009. The petitioner thereafter filed a petition on 02.03.2009 praying for reconsideration of the order dated 19.01.2009 and to take

cognizance of the offence under Sections 307/306 of IPC. The said petition came to be rejected vide order dated 03.03.2009 on the ground that the injury report of the injured-informant and Section 161 Cr.P.C. statement of the witnesses do not make out a case under the said sections. Being aggrieved, the petitioner has approached this Court.

4. A reading of the FIR clearly reveals that the incident had occurred due to a sudden quarrel between the petitioner and the accused persons, who happen to be the members of the same family. The dispute arose out of taking water from the common tap. There was a quarrel which was followed by assault on the informant. While learned counsel for the petitioner submits that the assault was made with the intention of killing the informant, learned State counsel referring to the injury report on the police requisition of the informant contends that a definite intention to kill the informant is not made out. Moreover, from the nature of the allegation as prescribed in the FIR as well as the statement of the witnesses recorded under Section 161 Cr.P.C. it is clear that the incident had occurred out of a sudden quarrel without any premeditation or intention to cause grievous hurt or death.

5. I have considered the rival contentions as above and have also perused the FIR and the injury report on police requisition of the informant, the certified copies of which have been produced by learned counsel for the petitioner in Court today. A reading of the FIR reveals that there is considerable force in the submissions of the learned State Counsel that the matter had arisen out of a sudden quarrel without any

premeditation or definite intention to assault the informant or with the intention to kill him or even cause grievous hurt. That apart, though a lacerated injury was sustained by the injured on the middle of his forehead but the same is simple in nature and it is clearly indicated that there was no bony injury to the skull.

6. Taking into consideration all the above aspects, this Court finds no infirmity much less any illegality committed by learned Court below so as to interfere with the impugned order.

7. The CRLREV therefore stands dismissed. Since this is a case of the year 2008, learned trial Court shall do well to dispose of the same as early as possible preferably, within a period of four months from the date of communication of this order.

(Sashikanta Mishra)
Judge

A.K. Rana

