

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.915 of 2021

Debasis Dhal

....
Petitioner
Mr. M.R. Dhal, Advocate

-Versus-

State of Odisha and Another

....
Opposite Parties
Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER

03.11.2022

Order
No.

04.

1. Heard counsel for the petitioner and learned counsel for the State.

2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner with a prayer for quashing of the FIR and entire criminal proceeding in connection with G.R. Case No.128 of 2021 corresponding to Banki P.S. Case No.101 of 2021 pending in the file of learned S.D.J.M., Banki on the grounds stated therein.

3. A copy of the FIR which is at Annexue-1 and the same is filed by the Court. In fact, on a report being lodged by the informant/victim, Jonk P.S. Case No.101 dated 13th April, 2021 was registered under Section 376(2)(n) IPC and other allied offences beside Sections 66(E) and 67 of the IT Act, 2000. The details of the allegations with regard to the alleged mischief committed by the petitioner stands described in the FIR.

4. Learned counsel for the petitioner submits that there is no material on record to suggest that the petitioner is alleged of having committed any overt act since because his relationship with the victim has been consensual since beginning. While contending so, decision of the Supreme Court in **Sonu @ Subhash Kumar Vrs. the**

State of Uttar Pradesh and Another 2021 (I) OLR (SC) 729 is place reliance on by the learned counsel for the petitioner. Mr. Praharaj, learned counsel for the State on the other hand submits that considering the nature of allegation in the FIR and the conduct of the petitioner, who in fact had promised for marriage to the victim and thereafter absconded is prima facie proved to have committed an offence of rape and therefore, he has been rightly chargesheeted for the said offence.

5. In course of hearing, learned counsel for the petitioner submits that he does not press the matter on merit, however, seeks for a direction of the Court for the petitioner to surrender since because in the meantime, the learned court below has issued a non-bailable warrant of arrest against him which is pending execution. Such a submission is made by the learned counsel for the petitioner taking into account the fact that the petitioner was in a relationship with the victim and as per the FIR both of them have had a marriage at a temple in the year 2021. An objection is received from Mr. Praharaj, learned counsel for the State having regard to the nature and gravity of the offences alleged vis-à-vis the petitioner.

6. The Court perused the FIR and gone through its contents. It does appear that the petitioner had been in a committed relationship with the victim but as per the latter's allegation, it was on a promise of marriage. In any view of the matter, the FIR shows that the victim claimed to have married the petitioner, who however subsequently deserted her and did not turn up. Considering the above facts and circumstances leading to the lodging of the FIR, the Court is of the view that even though it is not inclined to interfere with the criminal proceeding pending before the court below, however, in the peculiar facts and circumstances of the case, is of the view that the petitioner should

be directed to surrender and go on bail. It is apprised to the Court that the father of the petitioner has already been granted anticipatory bail in the meantime in ABLAPL No.5257 of 2021 by order dated 8th July, 2021. In other words, the Court is of the view that the petitioner should be allowed to surrender and released on bail subject to conditions.

7. Accordingly, it is ordered.

8. In the result, CRLMC stands disposed of with a direction to the petitioner to surrender before the court of learned S.D.J.M., Banki in connection with G.R. Case No.128 of 2021 arising out of Banki P.S. Case No.101 of 2021 on or before 18th November, 2022 and in the event he surrenders within the time stipulated, the court shall release him on bail with conditions as deem just and proper.

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

(R.K. Pattanaik)
Judge