

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1416 of 2022

Dukhanasan Dash

.... Petitioner
Mr. J.N. Panda, Advocate

-Versus-

State of Orissa and another

.... Opposite Parties
Mr. Tapas Kumar Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
23.11.2022

Order No.

01.

1. Heard learned counsel for the respective parties.
2. In the present case, the challenge is as to the order of cognizance dated 28th March, 2022 passed by the learned S.D.J.M., Sambalpur in G.R. Case No.1072 of 2022 arising out of Sasan P.S, Case No72 of 2022 under Annexure-3 on the grounds stated therein.
3. Copy of the FIR at Annexure-1 is perused.
4. On the basis of the written report of the informant, Sasan P.S. Case No.72 of 2022 was registered under Sections 341, 294, 323, 506 and 34 IPC. After completion of investigation, chargesheet has been filed which is at Annexure-2 and the Court perused the same.
5. Learned counsel for the petitioner submits that on a plain reading of the FIR i.e. Annexure-1 and considering the statement of the informant recorded under Section 161 Cr.P.C. a copy of which is

produced in Court today, no offence under section 506 is made out but then learned court below took cognizance of the said offences under Sections 341, 294, 323, 506 and 34 IPC and therefore, the impugned order under Annexure-3 is liable to be set aside to that extent.

6. Mr. Praharaj, learned Standing Counsel for the State on the other hand submits that the entire FIR story stands described in Annexure-1 and whether there was intimidation from the side of the petitioner or otherwise has to be gone through after considering other materials submitted along with chargesheet(Annexure-2).

7. The certified copy of the statement of the informant recorded under Section 161 Cr.P.C. is gone through wherefrom it is made to appear that the informant was assaulted by petitioner and others and as such there was no intimidation to him. The FIR i.e. Annexure-1 on being perused, the Court does not find that the informant was in a way intimidated by the petitioner but was certainly assaulted during the occurrence. Notwithstanding the fact that the petitioner has been chargesheeted with all the offences including Section 506 IPC, whereupon, the learned court below has taken cognizance of the said offence but in absence of any specific allegation regarding intimidation either in Annexure-1 or in the chargesheet except the informant being abused and assaulted during the incident, the Court is of the view that learned court below should not have taken cognizance of the offences under Section 506 IPC and therefore to that extent it is to be interfered with. In so far as the rest of offences are concerned, materials are on record to show that informant was abused and assaulted during and in course of the incident and hence, the impugned order under Annexure-3 needs no interference for the said offences.

8. Accordingly, it is ordered.

9. In the result, the CRLMC stands allowed in part. Consequently, the order under Annexure-3 in G.R. Case No.1072 of 2022 passed by the learned S.D.J.M., Sambalpur is set aside to the extent indicated above. As a necessary corollary, the impugned order dated 28th March, 2022 passed by the learned court below stands modified and shall be confined to the offences under Sections 341, 294, 323 read with 34 IPC.

10. Issue urgent certified copy on proper application.

(R.K. Pattanaik)
Judge



U.K.Sahoo