

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 268 of 2011

Prabir Kumar Dey & Others.

....

Petitioners

Mr.P.K. Mohaty, Advocate

- Versus -

State of Orissa.

....

Opp.Party

Mr. P. Tripathy,
Addl. Standing Counsel.

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

12.08.2022

Order No.
07.

1. This matter is taken up through hybrid mode.
2. The present revision is directed against the order dated 05.03.2011 passed by learned Asst. Sessions Judge-cum-C.J.M., Baripada in S.T. Case No. 55/126 of 2009, whereby, the prayer of the accused persons for discharge was rejected.
3. The petitioners have been arrayed in the case along with others for allegedly committing the offence under Section 341/307/326/324/323/34 of IPC. A petition was filed on behalf of three accused persons (present petitioners) under Section 227 of Cr.P.C. for discharge on the ground that they have been falsely implicated in the case and there is no iota of evidence against them for commission of any of the alleged offences.
4. As it appears from a perusal of the impugned order, learned court below has taken into consideration the FIR, charge sheet, statement of witnesses recorded by the I.O. during investigation and other connecting documents, such as, injury report, seizure list etc. to form a prima facie opinion that on 25.01.2003 at about 10 pm. the accused persons restrained the injured victim

Biswanath Mohanty near the traffic chhak, Baripada and assaulted him by means of bhujali, cycle chain causing severe injuries like incised and lacerated wounds on different parts of the body. One Raghunath Mohanty lodged FIR naming five accused persons including the present petitioners. Learned Court below has also taken into account the statement of the informant Raghunath Mohanty, Chhitaranjali Muduli, Akshaya Agrawalla, Anua Patra and Gopaldhar Mohapatra, who have prima facie, implicated the accused persons in the alleged occurrence.

5. It is well settled that at the stage of framing charge/discharge, the Court is not required to make a roving enquiry and to sift the evidence of materials on record and see whether the same prove the guilt of the accused persons or not. At that stage, all that the Court is required to do is to form a presumptive opinion on the basis of the materials produced by the prosecution that the alleged offence has been committed by the accused persons. After perusing the impugned order I find no infirmity therein so as to interfere.

6. In the result, the CRLREV being devoid of any merit is therefore dismissed.

7. The case being of the year 2009, learned court below shall do well to try and dispose of the same as early as possible, preferably within a period of three months from the date of communication of this order.

(Sashikanta Mishra)
Judge