

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2137 of 2016

Debendra Pani @ Deba @ Jiru

....

Petitioner

Mr. Digambar Sethi, Advocate

-versus-

State of Odisha

....

Opp. Party

Mrs. S. Patnaik, AGA

CORAM:

JUSTICE CHITTARANJAN DASH

DATE OF ORDER : 30.09.2022

1. Heard the learned counsel for the Petitioner and the learned AGA.
2. By means of this application, the Petitioner seeks to quash the proceeding pending before the court of J.M.F.C., Kashipur in connection with Doraguda P.S. Case No.81 of 2014 corresponding to G.R. Case No.298 (A) of 2014 wherein the Petitioner is alleged to have committed offence under Sections 395/450 IPC.
3. It is submitted by learned counsel that the Petitioner is one of the accused in the offence in which one of the co-accused, namely, Diwan Bag who has since faced the trial has been acquitted in the court of learned Additional Sessions Judge, Rayagada in C.T. Case No.14 of 2016. According to the learned counsel for the Petitioner none of the witnesses have deposed against the accused in the said trial and the case of the Petitioner being in the same footing no fruitful result would come in case

the exercise of trial is conducted in respect to the present petitioner and hence it is a fit case to quash the proceeding.

4. Learned AGA, on the other hand, vehemently opposed the contention and submitted that the present Petitioner remained absconded all through and warrant has been issued against him on the basis of a prayer made by the IO vide order dated 2nd January, 2016 of the learned J.M.F.C., Kashipur. It is further submitted that all the witnesses have deposed substantially in connection to the incident and there is no material from which it can be inferred that the trial, in case proceeds against the present Petitioner, would result futile.

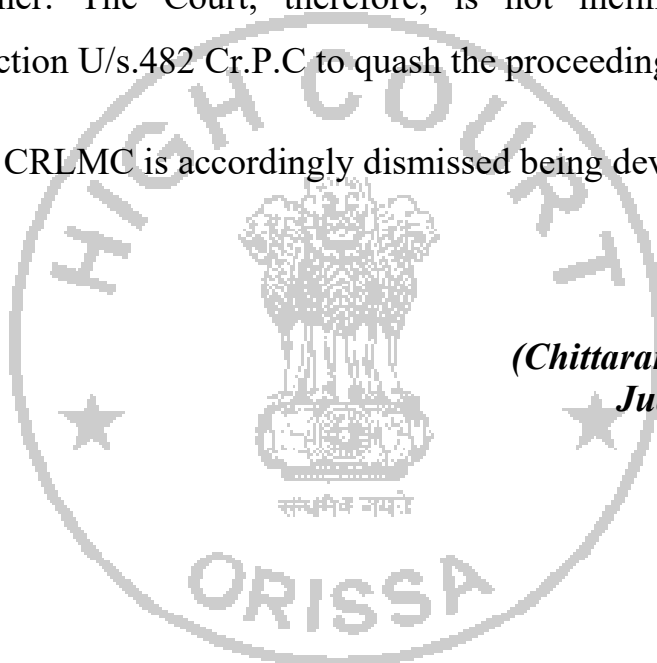
5. Perused the judgment passed in C.T. Case No.14 of 2016 , the copy whereof is annexed to the case record along with the depositions of the prosecution witnesses from the side of the Petitioner. There is ample of material to deduce that the occurrence took place on the alleged date, the witnesses have not only deposed to the factum of the incident but also have given the description of the incident bit by bit. The witnesses have the occasion to see the culprits by face, gesture and posture so also the complexion. There is no material that the accused persons were masked and not identifiable leading thereby to suggest that there is a fair chance for the witnesses to identify the accused persons if they stand trial. The very fact that the Petitioner has remained absconded since the inception, the T.I. parade could not be taken by the investigating agency.

6. On the contrary, the accused who faced the trial being a co-villager was known to the witnesses and the witnesses had the

occasion to identify him in case of his involvement in the alleged crime. Consequently, the acquittal of the accused in the above referred C.T. Case would no way affect the result of the proceeding vis-à-vis the left out accused persons, if not in the offence alleged but a lesser one. In the above premises, there is no material in favour of the Petitioner to quash the proceeding at the threshold.

7. Consequently, the same cannot be applied in favour of the Petitioner. The Court, therefore, is not inclined to invoke jurisdiction U/s.482 Cr.P.C to quash the proceeding.

8. The CRLMC is accordingly dismissed being devoid of merit.



(Chittaranjan Dash)
Judge

KC Bisoi/Secretary