

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1843 of 2022

Lingaraj Sahu and Another

....

Petitioners

Mr. U.C. Jena, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

16.09.2022

Order
No.

01.

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

2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners challenging the entire criminal proceeding in connection with C.T. Case No.136 of 2019 corresponding to Kundheigola P.S. Case No.63 of 2019 pending before the court of learned J,M.F.C., Reamal on the grounds stated therein.

3. Perused the copy of the FIR which is at Annexue-1 and also copy of the charge sheet as at Annexue-3

4. Learned counsel for the petitioners submits that no case for an offence under Section 307 IPC is made out and initially the petitioners were granted bail for lesser offence punishable under Sections 323 IPC but in the meantime, after filing of the charge sheet, the court below has issued warrant of arrest against them which is unjustified and therefore, as in the facts and circumstances of the case, no offence under Section 307 IPC is made out, the criminal proceeding may be quashed which is objected to by Mr. Praharaj, learned Standing Counsel for the State.

6. The Court perused the contents of FIR i.e. Annexure-1 and considering the submissions of the learned counsel for the respective parties, it is not inclined to interfere since because the case under Section 307 IPC is prima facie made out and that respect, charge sheet has been filed. The truthfulness and otherwise of the allegations regarding assault and an offence under Section 307 IPC if at all committed or not by the petitioners shall be a subject within the domain of the learned court below and therefore, the Court for the above reason is not inclined to interfere with the criminal proceeding. However, having regard to the fact that the learned court below has issued a non-bailable warrant of arrest against the petitioner and recording the submission that other accused persons have been granted bail in the meantime, the Court is of the view that the petitioners should be directed to surrender before the learned court below and go bail and the same would serve the purpose for the present.

7. Accordingly, it is ordered.

8. In the result, the CRLMC stands disposed of with a direction to the petitioners to surrender before the learned J.M.F.C., Reamal on or before 30th September, 2022 in C.T. Case No.136 of 2019 corresponding to Kundheigola P.S. Case No.63 of 2019 and in the event of their surrender, the court shall release them on bail with conditions as deemed just and proper in the facts and circumstances of the case.

9. An urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge