

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 306 of 2022

Jibananda Pattnaik* *Petitioner

Mr. A. Tripathy, Advocate

-versus-

State of Odisha* *Opp.Party

Mr.Rajesh Tripathy
Addl. Standing Counsel

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
26.07.2022**

Order No.

01.

This matter is taken up through Hybrid Arrangement (Video Conferencing/Physical Mode).

The petitioner Jibananda Pattnaik has filed this revision petition under section 401 read with section 397 of the Code of Criminal Procedure, 1973 challenging the order dated 21.06.2021 passed by the learned Addl. Sessions Judge, Bhanjanagar in S.T. Case No.141 of 2014 in rejecting the petition filed by the petitioner under section 227 Cr.P.C. for discharge and also framing charges under sections 302/353/224/225/506/120-B/34 of the Indian Penal Code read with section 25/27 of the Arms Act.

The sole contention raised by the learned counsel for the petitioner is that the submission of charge

sheet against the petitioner is based on the confessional statement of the co-accused before police and confession of the petitioner before the Magistrate. It is further submitted that the procedure laid down in the Cr.P.C. for recording the confessional statement of the accused has not been followed in the case and therefore, such confession is no confession in the eye of law and since there is no other material on record against the petitioner, submission of charge sheet so also order of framing of charge is illegal.

Learned counsel for the State opposed the prayer and contended that whether the confessional statement has been recorded properly in accordance with law or not is to be adjudicated by the learned trial Court at appropriate stage and this Court at this stage, should not deal with such aspect.

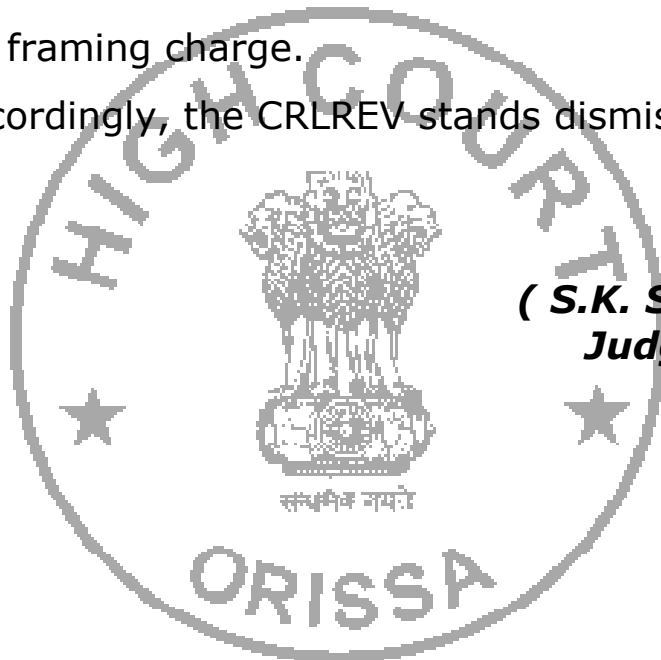
There is no dispute that in the 164 of Cr.P.C., the procedure has been laid down for recording confessional statement of an accused and in case, the trial Court comes to a finding that the confessional statement is not in accordance with law, then the evidentiary value of such confessional statement gets diminished and in an appropriate case, no reliance can be placed on such confessional statement. However, unless the learned Magistrate said to have recorded the confessional statement of accused is examined in the trial Court and the defence brings out something in the cross-examination to show that the procedure laid down under

164 of Cr.P.C. has not been complied with, no infirmity therein can be presumed. At this stage, it would not be proper to decide whether the confessional statement was or was not properly recorded.

In view of the submission made by the learned counsel for the respective parties, since the petitioner has got ample scope and opportunity to challenge the evidence of the Magistrate who recorded the confessional statement of the petitioner at the appropriate stage before learned trial Court, I am not inclined to quash the order of framing charge.

Accordingly, the CRLREV stands dismissed.

(S.K. Sahoo)
Judge



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