

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3710 of 2016

Suvendu Kumar Pratihari

..... Petitioner
Mr. B.K.Ragada, Advocate

-versus-

State of Odisha

..... Opp. Party
Mr. S.N.Das, ASC

CORAM:

JUSTICE GOURISHANKAR SATAPATHY

ORDER

21.10.2022

Order No.

- 08.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the petitioner and learned counsel for the State.
 3. In course of hearing, learned counsel for the petitioner submits that the alleged offence against the petitioner are U/Ss. 448/376/511/506 of I.P.C. but the present allegations levelled against the petitioner are motivated due to prior enmity and it is also submitted that there is a delay of two days in lodging of the F.I.R. and delay of one day in dispatch of the F.I.R. to the concerned Court and moreover, there is no eye witness to the occurrence and thereby the present F.I.R. is an abuse of process of law and needs to be quashed.
 4. On contrary, learned Counsel for the State submits that in a matter for commission of offence against women, the delay in dispatch of F.I.R. and delay in lodging of F.I.R. for such short duration are not material to

consider to quash the criminal proceeding against an accused. It is further submitted that the grounds advanced on behalf of the petitioner are not tenable in the eye of law.

5. Admittedly, the F.I.R. has been lodged against the petitioner for commission of alleged offences U/Ss. 448/376/511/506 of I.P.C. but the ground advanced on behalf of the petitioner that the F.I.R. has been lodged on account of prior enmity is pre-mature to suggest false implication, especially in absence of any materials inasmuch as no material has been produced on behalf of the petitioner to indicate that there was prior enmity between the parties. Moreover, for commission of offences U/S. 376/511 of I.P.C., it cannot be said that delay of two days in lodging of F.I.R. and delay of dispatch for one day to Court materially prejudiced the petitioner so as to invoke the jurisdiction of this Court U/S. 482 of Cr.P.C. to quash the F.I.R. solely on these two grounds. Further, the F.I.R. was lodged way back on 03.06.2008 and in the meanwhile around fourteen years have passed. Besides, the order taking cognizance of offences is impugned in this CRLMC but the petitioner except disputing the veracity of F.I.R. has not raised any valid point to criticize the order taking cognizance of offence. In *State of Haryana and others Vrs. Bhajan Lal and others; 1992 Supp. (1) SCC 335*, the Apex Court while setting of a guideline for matters relating to exercise of power U/S. 482 of Cr.P.C. has observed that where a criminal proceeding is manifestly attained with malafides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge but a careful perusal of the F.I.R. and impugned order annexed by the petitioner in this case never go to indicate

about informant bearing any grudge or wrecking vengeance on the accused. Except the copy of F.I.R. and impugned order, the petitioner has not produced any more documents in support of his contention for quashing of criminal proceeding. The submission advanced on behalf of the petitioner could not persuade/motivate this Court to exercise the jurisdiction U/S 482 of Cr.P.C. more so, when the petitioner could not substantiates the grounds taken by him in the CRLMC application.

6. In view of the above facts and law discussed hereinabove and taking into consideration the submissions advanced on behalf of the petitioner being not prima facie established in consonance with any legal provisions and the F.I.R. having lodged way back around fourteen years back, this Court is reluctant to quash the order taking cognizance of offences and consequently the criminal proceeding.

7. In the result, the CRLMC is dismissed but in the circumstances there is no order as to costs.

(*G. Satapathy*)
Judge