

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1981 of 2022

Tulasi Dixit

....

Petitioner

Mr. B.N. Mohapatra, Advocate

-Versus-

State of Odisha and Others

....

Opposite Parties

Mr. S. Mishra, ASC

Mr. N.K. Das, Advocate for O.P.No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
18.11.2022

Order
No.
02.

1. Heard learned counsel for the petitioner and learned counsel for the State besides learned counsel for opposite party No.2.
2. Instant petition under Section 482 Cr.P.C. is filed for quashing of the order of cognizance vide Annexuree-2 passed in G.R. Case No.390 of 2016 by the learned S.D.J.M., Rairangpur on the grounds stated therein.
3. A copy of the FIR is at Annexure-1 and the same is perused.
4. The impugned order is at Annexure-2 besides the copy of the judgment in S.T. No.19 of 2017 delivered by the court of learned Additional Sessions Judge, Rairangpur, Mayurbhanj on 31st March, 2021 which is in respect of two other accused persons,

namely, the husband and father-in-law of the victim/deceased, who was the daughter of opposite party No.2.

5. A copy of judgment in Criminal Appeal No.187 of 2021 by this Court dated 27th April, 2022 is at Annexure-5.

6. Learned counsel for the petitioner submits that the petitioner is the mother-in-law of the deceased whereas other two accused persons though initially convicted by the Sessions court in S.T. Case No.19 of 2017 despite hostile evidence, the finding and order of conviction as well as sentence was overturned by this Court in Criminal Appeal No.187 of 2021. It is further submitted that there is no evidence at all, inasmuch as, opposite party No.2 and all other material witnesses did not support the prosecution case which, however, resulted in conviction and thereafter, it was set aside in appeal by this Court and considering the same, as the two accused persons including the husband of the victim have been acquitted of all the charges, no fruitful purpose would be served to subject the petitioner to face a trial and therefore, the criminal proceeding pending before the court of learned S.D.J.M., Rairangpur in G.R. Case No.390 of 2016 should be quashed in the interest of justice.

7. Mr. Mishra, learned counsel for the State objects to the contention of the petitioner by stating that the mother-in-law of the deceased has not yet been committed to the Sessions court. Learned counsel for the opposite party No.2 submits that an affidavit is filed sworn by opposite party No.2 himself and it is stated that the informant does not have any objection, if the proceeding is closed against the petitioner, as in the meantime, other two accused persons have been acquitted by this Court.

8. In fact, the husband and father-in-law of the deceased, namely, the daughter of opposite party No.2 faced full-fledged trial in S.T. No.19 of 2017 which though resulted in an order of conviction however on a reading of the judgment of the Sessions court, it is made to appear that the prosecution witnesses turned hostile and finally it stood set aside by this Court in Criminal Appeal No.187 of 2021. At present, opposite party No.2 filed an affidavit stating about having no objection, if the criminal proceeding is quashed particularly on the anvil of acquittal of other two accused persons.

9. Considering the totality of the facts and circumstances of the case and taking judicial notice of the fact that the other two accused persons have been acquitted of all the charges by a judgment dated 27th April, 2022 in Criminal Appeal No.187 of 2021, the Court is of the humble opinion that no worthy purpose would be served to subject the petitioner to a full blown trial with such evidence received during the trial. In other words, the Court is of the opinion that there is most unlikely to have any incriminating evidence against the petitioner if there is a trial and hence, under such circumstances and more particular when the other two accused persons are acquitted of the charges, in exercise of inherent jurisdiction, the criminal proceeding which is pending before the learned court below yet to be committed should be brought to an end and quashed.

10. Accordingly, it is ordered.

11. In the result, CRLMC stands allowed. Consequently, the impugned order of cognizance under Annexure-2 besides entire of the criminal proceeding in G.R. Case No.390 of 2016 arising out of Rairangpur Town P.S. Case No.83 of 2016 pending in the file of learned S.D.J.M., Rairangpur is hereby quashed.

12. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge



TUDU