

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 333 of 2022

*Gopal Kar @ Gopal Chandra
Kar & Another*

...

Petitioners

Mr. P.K. Khuntia, Advocate

-Versus -

State of Odisha

....

Opposite Party

Mr. P.Tripathy, Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

17.11.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners and learned Additional Standing Counsel for the State.
3. The petitioner is aggrieved by the Order dated 04.03.2022 passed by the learned S.D.J.M., Jajpur in G.R. Case No. 691 of 2017.
4. The case has arisen out of an F.I.R lodged by one Rabi Narayan Pani before the Alkund Out Post on 24.06.2017 alleging therein that the petitioner and his family members abused him in obscene language and also assaulted him by means of an iron rod. Accordingly, Binjharpur P.S. Case No. 204 of 2017 was registered under Sections-341/294/323/506/34, I.P.C.
5. The petitioner claims to have been falsely implicated in the case by containing that at the relevant time he was working as a guest Professor in Shri Jagannath Sanskrit University at Puri. It is further submitted that the petitioner was in the said campus on the date of occurrence. The petitioner, therefore filed an application under Section-227 of the Cr.P.C. seeking discharge from the case. In course of hearing of the petition, the petitioner filed xerox copy of the Visitor's Admission Register maintained by the Security Officer of the University purportedly to show his presence in the

university on the date of occurrence. Learned Court below held that this being a plea of alibi, it is to be proved beyond reasonable doubt and that the burden is on the accused to prove the same. The Court below also held that the documents filed by the petitioner cannot be considered at this stage. After going through the impugned order, this Court finds nothing wrong in the same so as to interfere. As held by the Trial Court, the accused having taken the plea of alibi, the onus lies on him to prove the same beyond reasonable doubt. Proof of the same can only be adduced during trial and the burden cannot be discharged only on production of the Visitor's Admission Register. It is open to the petitioner to adduce cogent evidence to support his plea of alibi during trial. At the stage of framing charge, it is not necessary for the Court to enter into the evidence deeply but only to form a presumptive opinion regarding examination of the offence by the accused. The Trial Court had done exactly that. This Court, therefore finds no reason to interfere with this Revision Petition.

6. The CRLREV is dismissed.

(Sashikanta Mishra)
Judge

Balaram