

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2192 of 2022

Lipika Behera and Another

....

Petitioners

Mr. J. Sahoo, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S. Mishra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

09.12.2022

Order
No.
04.

1. Heard learned counsel for the petitioners and learned counsel for the State.
2. The challenge is to the order of cognizance dated 2nd February, 2021 in respect of an offence punishable under Section 307 IPC by the learned J.M.F.C., Khallikote in connection with G.R. Case No.1080 of 2020 on the ground that the said offence is not made out from the material on record.
3. Copy of the FIR is at Annexure-1.
4. Mr. Sahoo, learned counsel for the petitioners submits that chargesheet was filed under Section 307 IPC for other accused persons and not against the petitioner but then, the learned court below took cognizance of the said offence against them even in absence of any material on record and therefore, the impugned order under Anenxure-2 is not sustainable in law to the extent under challenge.

5. Mr. Mishra, learned counsel for the State on the other hand submits that the petitioners are involved along with the other accused persons and all of them participated during the incident and therefore, the learned court below took cognizance of the offence under Section 307 IPC against them as well and therefore, it calls for no interference.

6. Considering the nature of allegations in the FIR i.e. Annexure-1 and the circumstances leading to the lodging of the report with the local police, the Court is of the view that since the petitioners have been implicated along with accused persons for an offence under Section 307 read with 34 IPC, the said offence cannot be quashed in exercise of inherent jurisdiction leaving open for the learned court below to examine and consider the same during enquiry.

7. At this juncture, Mr. Sahoo, learned counsel for the petitioners submits that since the Court is not inclined to interfere with the impugned order to the extent claimed, the petitioners should at least to be directed to surrender before the learned court below and released on bail in the peculiar facts and circumstances of the case.

8. Considering the submissions of the learned counsel for the respective parties and since the petitioners were not chargesheeted for the offence under Section 307 IPC but the learned court below instead proceeded against them for the said offence and took cognizance under Annexure-2, the Court is of the view that the petitioners being the lady members of the family should be directed to surrender before the learned court below and released on bail

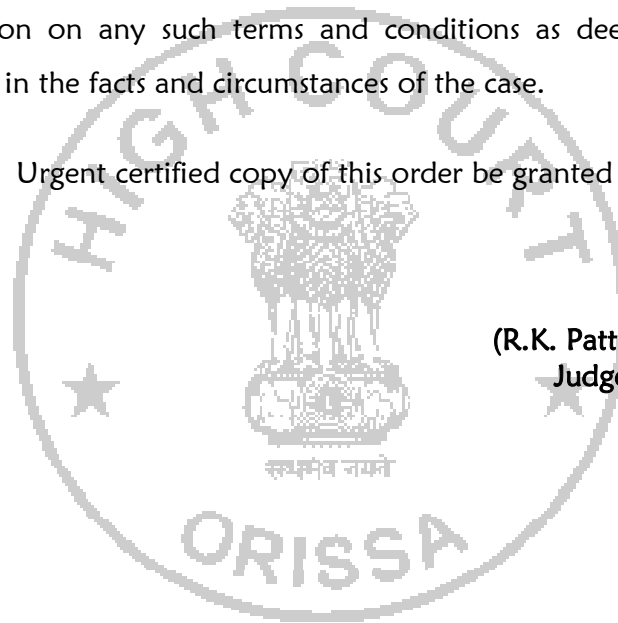
subject to conditions which would serve the purpose for the present.

9. Accordingly, it is ordered.

10. In the result, CRLMC stands disposed of with a direction to the petitioners to surrender before the learned J.M.F.C., Khallikote on or before 23rd December, 2022 in connection with G.R. Case No.1080 of 2020 and in the event they surrender within the time stipulated, the court below shall release them on bail subject to condition on any such terms and conditions as deemed just and proper in the facts and circumstances of the case.

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

(R.K. Pattanaik)
Judge



TUDU