

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2780 of 2019

Rabi Sabar.

....

Petitioner

M/s. S.P. Mohanty, G.N. Sahu, Advocates

-versus-

State of Odisha & another.

....

Opposite Parties

Addl. Standing Counsel – For O.P.No.1-State

**CORAM:
JUSTICE S. PUJAHARI**

**ORDER
29.07.2022**

**Order
No.**

09.

1. This is an application filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) for quashing of the proceeding in C.T. Case No.55 of 2019 pending in the court of the learned Addl. Sessions Judge, Gunupur, corresponding to Gunupur P.S. Case No.17 of 2019, against him.

2. Heard the learned counsel for the petitioner, and the learned counsel appearing for the State-

opposite party no.1. None appeared for the opposite party no.2-informant.

3. It is alleged that the petitioner along with the co-accused persons committed murder of the parents of the informant, namely, Gopal Sabar and Laxmi Sabar, and another lady, namely, Jakili Sabar, under suspicion of their having practiced witchcraft caused disappearance of their dead bodies, and committed other crimes in prosecution of their common object. The informant who at the relevant time was away from village, on being informed of the incident returned to village and lodged the FIR with police, and after completion of investigation, charge-sheet was filed against fifteen accused persons including the present petitioner under Sections 147, 148, 450, 325, 302, 201, 506 and 149 of IPC and Section 4(1) of the Odisha Prevention of Witch Hunting Act, 2013. On the basis of the charge-sheet and other police papers, the SDJM, Gunupur took cognizance of the aforesaid offences against the accused persons, and the case

upon being committed is now pending in the court of the Addl. Sessions Judge, Gunupur.

4. The sole ground on which the petitioner has sought for quashing of the proceeding against him is that although as per the FIR it was one Rabi Sabar, son of Nilambar Sabar who was allegedly involved in the incident along with others, the Investigating Officer by manipulating the case diary has implicated and charge-sheeted him (petitioner) in this case, although he was not involved in the alleged case incident. Admittedly, the petitioner's father's name is Late Iswar Sabar and not Nilambar Behera. It is also apparent that in the FIR the accused Rabi Sabar has been stated to be son of Nilambar Sabar. The petitioner in support of his such claim has relied on the affidavit dated 17.02.2020 sworn by one Timpa Sabar, Ward Member of Ukkambaguda Gram Panchayat, and the affidavits of some other persons. Through those affidavits the petitioner sought to establish that there is another Rabi Sabar at his

village whose father's name is Nilambar @ Albeta @ Budo Sabar whose name finds place at sl.no.14 of the voter list whereas the petitioner's name with his father's name as Iswar Sabar finds place at sl.no.48, and that police instead of arresting the other Rabi Sabar has falsely arrested and implicated him in this case.

5. The I.I.C., Gunupur Police Station has stated vide his counter affidavit that there is no person named as Rabi Sabar, son of Nilambar Sabar at village-Ukkambaguda, rather the name of the grandfather of the present petitioner is Nila Sabar @ Nilambar Sabar. The I.I.C. has produced copies of the voter identity cards of the petitioner, his parents, paternal uncle (Majhi Sabar) and paternal grandmother (Buchi Sabar). Majhi Sabar is shown as the son of Nila Sabar and Buchi as the wife of Nila Sabar. The I.I.C. has also produced a photocopy of the Aadhar card of the other Rabi Sabar of the same village whose father's name is shown as Bada Sabar.

Although Timpa Sabar has stated on behalf of the petitioner in his affidavit that the other Rabi Sabar whose name finds place at sl.no.14 of the voter list, is the son of Nilambar @ Albeta @ Budo Sabar, a perusal of the voter list filed by the petitioner shows that the voter at sl.no.14 is Rabi Sabar, son of Budo Sabar, and the voter at sl.no.16 is Nakshatra Sabar, wife of Budo Sabar in the same house, i.e., the house no.4 of village-Ukkambaguda. The I.I.C. has stated that Nakshatra Sabar is the step-mother of the said Rabi Sabar. Neither the voter list nor the Aadhar card supports the claim of the petitioner that the father's name of the other Rabi Sabar is Nilambar or that Budo Sbaar was otherwise known as Nilambar.

6. As it further appears, the investigation was directed against the present petitioner and not other Rabi Sabar, and on 27.02.2019 when the Investigating Officer conducted raid in the house of the present petitioner, he was found absconding. In the facts and circumstances as depicted from record,

and for mere reason that the name of the father was wrongly mentioned in the FIR by the informant who, admittedly, was not present at village at the relevant time, this Court is unable to accept the contention of the petitioner that instead of the other Rabi Sabar he has been charge-sheeted by manipulation of the case diary / police papers. Hence, there is no merit in the application.

7. In the result, this CRLMC stands dismissed.

(S.Pujahari)
Judge

MRS