

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1360 of 2016

Preetam Jaiswal

....

Petitioner

Mr. S.S.Ray, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr.P.K.Rout, AGA

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

22.09.2022

Order No.

- 01.
1. Heard learned counsel for the petitioner and learned counsel for the State.
 2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioner assailing the order of cognizance dated 2nd April, 2016 passed in G.R. Case No. 236 of 2015 corresponding to Parlakhemundi P.S. Case No. 74 of 2015 pending in the court of learned SDJM, Parlakhemundi, Gajapati and also the criminal proceeding as a whole on the grounds stated therein.
 3. Perused the copy of the F.I.R. which is at Annexure-2.
 4. Learned counsel for the petitioner submits that the petitioner is the husband of the deceased and there is no allegation in Annexure-2 with regard to his involvement. It is further submitted that the deceased committed suicide by hanging and the materials on record shows that she had a quarrel with the mother of the petitioner soon

before her death. According to the learned counsel for the petitioner since there is no material on record to show the involvement of the petitioner in the death of the victim, the impugned order as at Annexure-1 is not tenable in law and therefore, it should be quashed and also the criminal proceeding which is objected to by Mr. Rout. learned AGA on the ground that Annexure-2 as at charge sheet prima facie proves a case vis-à-vis petitioner and therefore, the learned court below rightly took cognizance of the offences and proceeded further.

5. The Court perused the statements of the witnesses recorded under Section 161 Cr.P.C. which are at Annexure-4 series. On consideration of the materials including F.I.R. which is Annexure-2, the Court finds that there has been a detailed description as to the circumstances which led to the death of the victim. It is claimed that at the time of the death of the deceased, the petitioner was absent and after a quarrel with his mother, she hanged herself. Whether the petitioner was responsible for the alleged death or not shall be examined by the court below during trial. The Court is not inclined to examine the facts of the case to find out the truthfulness or otherwise of the allegations and also with regard to the involvement of the petitioner in so far as the victim's death is concerned which remain within the domain of the court below for being examined during enquiry and if not discharged, in course of trial.

6. Therefore, the Court is not inclined to interfere with the impugned order i.e. Annexure-1 whereby the learned court below has taken cognizance of the offences against the petitioner.

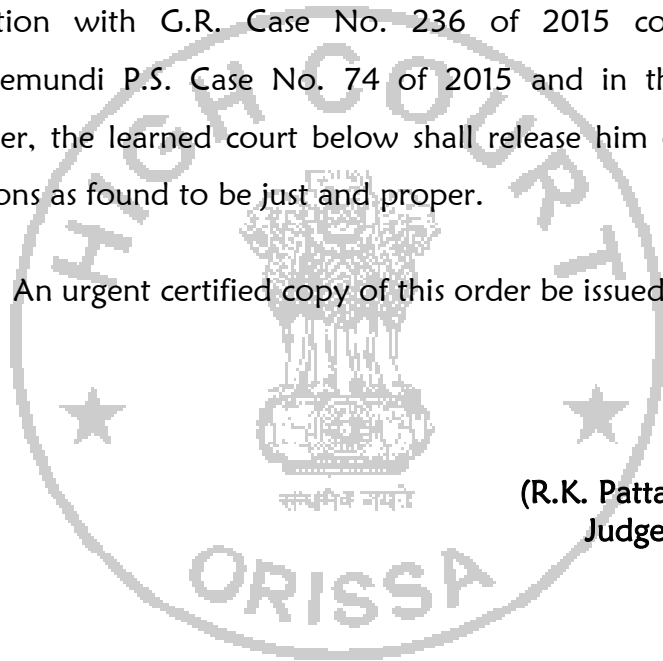
7. However, it is submitted by the learned counsel for the petitioner that an NBWA is pending execution case against the petitioner and in so far as the mother accused is concerned, she is on

bail. Considering the nature of allegations, the Court is of the view that the petitioner husband, in the peculiar facts and circumstances of the case, should be directed to surrender before the learned court below and go on bail subject to conditions.

8. Accordingly, it is ordered.

9. In the result, the CRLMC stands dismissed with a direction to the petitioner to surrender before the court of learned SDJM, Parlakhemundi, Gajapati on or before 15th October, 2022 in connection with G.R. Case No. 236 of 2015 corresponding to Parlakhemundi P.S. Case No. 74 of 2015 and in the event of his surrender, the learned court below shall release him on bail on such conditions as found to be just and proper.

10. An urgent certified copy of this order be issued as per rules



(R.K. Pattanaik)
Judge

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