

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2378 of 2022

Susil Kumar Maharana

.... **Petitioner**
Mr. K. Pradhan, Advocate

-Versus-

State of Odisha and Others

.... **Opposite Parties**
Mr. T.K. Praharaj, S.C.

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
12.12.2022

Order No.

04.

1. Heard Mr.K. Pradhan, learned counsel for the petitioner and Mr.T.K. Praharaj, learned Standing Counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner challenging the correctness of the order dated 28th August, 2021 under Annexure-5 passed by the learned Additional Sessions Judge-cum-Special Judge under POCSO Act, Nayagarh in Ranpur P.S. Case No.81 of 2019 corresponding to T.R. Case No.91 of 2021 arising out of Spl. G.R. Case No.33 of 2019 on the grounds inter alia that the same is not tenable in law and be set aside in the interest of justice.
3. Copy of the FIR is at Annexure-1 and chargesheet at Annexure-4 are perused, which reveal that the petitioner has been chargesheeted under Section 376(2)(n) of the IPC read with Section 6 of POCSO Act.

4. Mr. Praharaj, learned counsel for the State submits that the allegations is out rightly false and that apart, opposite party No.2 had lodged a report with the local police for which a case was registered as per Annexure-3 series but thereafter, the present FIR was lodged and considering the same, the criminal proceeding which has been initiated at the behest of the informant, namely, opposite party No.2 should be quashed in the interest of justice.

5. Mr. Praharaj, learned counsel for the State on the other hand submits that Annexure-1 discloses the involvement of the petitioner, who has been charged for an offence under Section 376(2)(n) IPC and therefore, it calls for no interference.

6. The Court considers the FIR and contents besides other documents under Annexures-2 and 3 which reveal that opposite party No.2 lodged a report with the local police alleging the involvement of the petitioner for kidnapping the victim, namely, oppose party No.3 but thereafter, the parties claimed to have settled their dispute at the local PS. Learned counsel for the petitioner submits that in view of such report lodged by opposite party No.2 and compromise reached at between the parties, which of course did not materialize after the FIR i.e. Annexure-1 was lodged with false allegation made therein, under the above circumstances, the criminal proceeding should be quashed or else the petitioner would be unnecessarily harassed.

7. The Court after considering the submissions of the learned counsel for respective parties is of the view that on the grounds raised, the criminal proceeding cannot not be quashed as the truthfulness or otherwise of the allegations made by opposite party No.2 is to be gone into and examined by the court below during and in course of enquiry and trial. In other words, it is not a fit case where the Court should exercise jurisdiction under Section 482

Cr.P.C. to quash the impugned order under Annexure-1 as prayed for. However at this stage, the Court is of the further view that the petitioner though has been chargesheeted for the alleged offences, he should be directed to surrender before the learned Sessions Judge and released on bail and in order to enable him to participate in the enquiry and trial, which would serve the purpose and meet the ends of justice. Accordingly it is ordered.

8. In the result, the CRLMC stands disposed of with a direction to the petitioner to surrender before the court of learned Additional Sessions Judge-cum-Special Judge, Under POCSO Act, Nayagarh on or before 23rd December, 2022 in connection with Ranpur P.S. Case No.81 of 2019 corresponding to T.R. Case No.91 of 2021 arising out of Spl. G.R. Case No.33 of 2019 and in the event he surrenders, the court below shall release him on bail with conditions keeping in view the facts and circumstances of the case.

9. Issue urgent certified copy of this order on proper application.

(R.K. Pattanaik)
Judge