

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4691 of 2015

Jasabanta Pradhan

.... **Petitioner**
Mr. A. Das, Advocate

-Versus-

State of Odisha

.... **Opposite Party**
Mr. M. Mishra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

Order
No.

ORDER
05.08.2022

08. 1 Learned counsel for the petitioner and learned counsel for the State.
2. The present petition under Section 482 Cr.P.C. is at the behest of the petitioner for quashing of the criminal proceeding in G.R. Case No. 129(A) of 2000 arising out of G. Udayagiri P.S. Case No.36 of 2000 pending in the file of learned J.M.F.C. G. Udayagiri and discharge him from the alleged charges on the grounds inter alia that the same is expedient in the interest of justice.
3. Learned counsel appearing for the petitioner submits that the case which was initiated against the principal accused stands disposed of in S.T. No.19 of 2009 arising out of in G.R. Case No.129 (A) of 2000 whereby he has been acquitted of the charges under Sections 376 and 120(B) IPC and while contending so, Mr. Das referred to Annexure-2 which is copy of the said judgment. It is further contended by Mr. Das that in view of the order of the acquittal vis-à-vis the principal accused, namely, Jatindra Pradhan, who was alleged of being responsible for the sexual assault against the victim no fruitful purpose would be served to continue with the

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criminal proceeding against the petitioner who is alleged of being an abettor. It is also submitted by Mr. Das that the victim who lodged the FIR turned hostile during trial and in that respect, made the Court to go through the relevant portion of the judgment in S.T. Case No.19 of 2009.

4. Learned counsel for the State admits the fact that the victim had in fact been turned hostile during trial in S.T. Case No.19 of 2009 and fairly concedes to the suggestion of the Court that in view of such order of acquittal of the principal accused, no real purpose may be served to continue with the prosecution against the petitioner.

5. The Court perused the judgment at Annexure-2. On a reading of the aforesaid judgment, the Court finds that the principal accused, namely, Jitendra Pradhan was made to face trial for charges under Sections 376 and 120(B) IPC with regard to the alleged incident dated 25th May, 2000 during which the victim alleged him of having sexually assaulted her. In fact, from the judgment, the Court finds that the victim was examined as P.W.2 and she rather expressed her ignorance about the incident and also declined to identify the principal accused and though she was cross-examined under Section 154 Cr.P.C. but nothing was elicited to bring home charges against the said accused. It further appears that two more witnesses were examined as P.W.1 and P.W.2 but the learned trial court did not find their evidence to be of any help to the prosecution in view of the testimony of victim and ultimately passed the order of acquittal. In so far as the present case is concerned, the petitioner is alleged to have assisted the main accused during the alleged incident. However, in view of the nature of evidence received from the victim and also other two witnesses and in view of the fact that the principal accused was acquitted of the charges including the offence under Section 376 IPC in S.T. Case

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No.19 of 2009, the Court is of the view that no purpose would be served to continue the proceeding against the petitioner, rather, it would be a futile exercise and even be an abuse of process of law.

6. Being alive to the settled position of law as laid down by the Supreme Court time and again and most prominently in a judgment the case of **State of Haryana and others Vrs. Ch. Bhajan Lal and others 1990 SCR Supp.(3) 259**, wherein, it has been held that jurisdiction under Articles 226 of the Constitution of India and Section 482 Cr.P.C. may be exercised in certain cases depending on the facts and circumstances of the each particular case in order to meet the interest of justice, the Court is of the view that since the principal accused has been acquitted on the strength of hostile evidence received from the victim and others, the criminal proceeding as against the petitioner in G.R. Case No.129(A) of 2000 should be quashed and accordingly, it is ordered.

7. In the result, the CRLMC stands allowed. As a necessary corollary, the criminal proceeding in G.R. Case No.129(A) of 2000 arising out of G. Udayagiri P.S. Case No.36 of 2000 pending in the file of learned J.M.F.C. G. Udayagiri is hereby quashed.

(R.K. Pattanaik)
Judge