

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2617 of 2022

Guru Prasad Dalai

.... Petitioner
Mr. P.C. Jena, Advocate

-Versus-

State of Odisha

.... Opposite Party
Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
19.10.2022

Order
No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed for quashing of the order of cognizance dated 25th October, 2021 passed in C.T. No.539 of 2020 corresponding to Bhograi P.S. Case No.151 of 2020 pending in the file of learned NGN-Cum-J.M.F.C., Bhograi on the grounds stated therein,
3. Copy of the FIR which is at Annexure-1 and the same is perused by the Court.
4. Learned counsel for the petitioner submits that the parties are related and the dispute was in relation to sharing the property and with false allegations made in the FIR, the petitioner has been implicated with an intention to harass him. It is further submitted that in that connection, the incident happened and during and in course of which, the petitioner is alleged to have with an iron rod assaulted the injured but injury is of simple in nature and therefore, under the facts and circumstances of the case, no offence under Section 307 IPC can be said to have been made out against him. Mr.

Jena confines his submission to the sustainability of the charge under Section 307 IPC vis-a-vis the petitioner in respect of which the learned court below has taken cognizance of by the impugned order under Annexure-2.

5. Mr. Praharaj, learned counsel for the State submits that the alleged during the incident the petitioner with an iron rod assaulted the victim and causes a head injury.

6. Mr. Jena refers to copy of the injury report which is at Annexure-3 and submits that the injured received a lacerated wound of simple in nature and as per the opinion it might have been caused by a hard and blunt object and in such view of the matter and considering the circumstances under which the petitioner committed the overt act, no offence under Section 307 IPC can be held to have been made out.

7. Considering the submissions of learned counsel for the petitioner as well as learned counsel for the State, the Court is of the view that such ground can be raised at the time of framing of charge before the Sessions Court with regard to the allegation of having assaulted the victim and commission of an offence under Section 307 IPC. In other words, the Court is not inclined to interfere at this stage leaving it open for the petitioner to raise the ground while seeking discharge before the Sessions Court at its appropriate time.

8. However, it is informed to the Court that post submission of chargesheet, the learned court below has issued a non-bailable warrant of arrest which is pending execution against the petitioner till date. Considering the nature of dispute and the fact that parties are related and is civil dispute pending between them, the Court is of the opinion that the petitioner should be directed to surrender before the learned court below and allowed to go on bail.

9. Accordingly, it is ordered.

10. In the result, CRLMC stands disposed of with a direction to the petitioner to surrender before the learned NGN-Cum-J.M.F.C., Bhograi in connection C.T. No.539 of 2020 corresponding to Bhograi P.S. Case No.151 of 2020 and in the event of his surrender, the court shall release him on bail subject to such terms and conditions as deem just and proper in the facts and circumstances of the case

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

Tudu



(R.K. Pattanaik)
Judge