

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2659 of 2022

Prabhata Sahoo @ Prabhata Kumar Petitioners
Sahoo and others

Mr. Prasanta Kumar Sahoo, Advocate

-Versus-

State of Odisha and another Opposite Parties
Mr. Rajesh Kumar Tripathy, ASC, OP No.1
None for OP No.2

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
02.11.2022

Order No.

- 04.
1. Heard learned counsel for the petitioners and learned counsel for the State. None appears for opposite party No.2 at the time of call.
 2. Challenge is as to quashing of the criminal proceeding which is pending before the learned J.M.F.C., Odagaon in G.R. Case No.100 of 2022 arising out of Odagaon P.S. Case No.62 of 2022 on the grounds stated therein.
 3. Mr. Sahoo, learned counsel for the petitioners submits that there is allegation that the petitioners have assaulted one Rabindra Sahoo, Janardana Sahoo and opposite party No.2 by lathi and other deadly weapons, as has been revealed from the FIR as at Annexure-1, as a result of which, the injured received lacerated wounds as is further made to appear from the Medical Examination Report. It is also submitted that since there is no evidence with regard to the assault in the hands of the petitioners, the criminal

proceeding should be quashed which is strongly objected to by the learned counsel for the State on the ground that all the accused persons brutally assaulted the injured, which caused number of injuries as is revealed from the Medical Examination Report and found it to be grievous in nature. It is further submitted by the learned counsel for the State that another victim Kasinath Sahu also received multiple injuries and was admitted in AIIMS. In view of the above submissions, the learned counsel for the State submits that it is not a case to quash the criminal proceeding against the petitioners as has been prayed for on their behalf.

4. Perused the FIR at Annexure-1 and statements of witnesses recorded under Section 161 Cr.P.C. as at Annexure-2. It is made to appear from the Medical Examination Report that petitioners have also committed the overt acts although one of the named co-accused carried out the major assault with the help of a sharp edged weapon, as a result of which, one of the victims got severely injured as revealed from Annexure-2 series which shows that he received multiple injuries and in such view of the matter, the involvement of the petitioners in the alleged incident cannot be denied or ruled out.

5. Having regard to the nature of offences alleged and the injuries sustained, this court is not inclined to quash the criminal proceeding and therefore the prayer for quashing of the criminal proceeding in G.R. Case No.100 of 2022 pending in the file of learned J.M.F.C., Odagaon cannot be accepted. However, at this juncture, Mr. Sahoo, learned counsel for the petitioners submits that petitioners should at least be directed to surrender and released with conditions, as in the meantime, the main assailant has been granted bail.

6. While considering the above submissions and facts on record, the CRLMC stands disposed of with a direction to the petitioners to surrender before the learned J.M.F.C., Odagaon on or before 18th November, 2022 in connection with G.R. Case No.100

of 2022 arising out of Odagaon P.S. Case No.62 of 2022 and apply for bail, in such event, the court below shall consider the same and in case the application is rejected, they may move the higher forum on the same day and in that case, the Sessions court shall consider the prayer and pass order on the same day considering the plea of parity and for the said purpose, the LCR shall be transmitted along with the case diary to the court of Sessions in course of the day and at the cost of the petitioners to ensure its prompt disposal.

7. Urgent copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

