

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2661 of 2022

Rajua @ Kalia @ Rajendra Mallick and
Others

Petitioners

Mr. S.K. Nayak, Advocate

-Versus-

State of Odisha and Another

.... Opposite Parties

Mr. R.K. Tripathy, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
02.11.2022

Order
No.
01.

1. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for opposite party No.2.
2. Present challenge is as to the quashing of the criminal proceeding on the ground that there has been no compliance of provision of Section 200 Cr.P.C by the learned S.D.J.M., Bhadrak before taking cognizance of the offences in connection with ICC Case No.18 of 2021 and that apart, no case under Section 307 IPC is made out even by bare reading of the complaint, a copy of which is at Annexure-1.
3. Learned counsel for the petitioners with the above grounds assailed order of cognizance of the offence and that the materials do not satisfy ingredients of Section 307 IPC, inasmuch as, the victim, namely, opposite party No.2 did not receive any injury on account of alleged assault.
4. In course of hearing, learned counsel for the petitioners submits that at present NBWAs are pending execution against the petitioners and if this Court is not inclined to quash the criminal

proceeding in ICC Case No.18 of 2021 at least petitioners should be directed to surrender and apply for bail,

5. An objection is received from opposite party No.2 by claiming that there are number of cases pending vis-a-vis the petitioners and therefore, he should not be allowed to surrender and go on bail. An objection is also received from Mr. Tripathy, learned counsel for the State against such contention of petitioners. Having regard to the nature of allegations in the complaint and considering the submissions of learned counsel for the respective parties, the Court is of the view that the petitioners should raise all such grounds including absence of materials to implicate them for the offence under Section 307 IPC at the time of framing of charge. In other words, the Court is not inclined to interfere quash the criminal proceeding which is pending before the learned court below in ICC Case No.18 of 2021 but should be granted bail.

6. Accordingly, it is ordered.

7. in the result, CRLMC stands disposed of with direction to the petitioners to surrender before the court of learned S.D.J.M., Bhadrak in connection with ICC Case No.18 of 2021 on or before 18th November, 2022 and in the event, they surrender within the stipulated time and apply for bail, the court shall release them on bail subject to conditions as deem just and proper.

8. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

TUDU