

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2672 of 2022

Rabi @ Umakanta Barik

....

Petitioner

Mr. Biswa Kumar Mishra, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. Tapas Kumar Praharaj, SC,

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

09.11.2022

Order No.

03.

1. Heard learned counsel for the petitioner and Mr.T.K. Praharaj, learned counsel for the State.

2. Instant petition under Section 482 Cr.P.C. at the behest of the petitioner for quashing of the criminal proceeding in connection with S.T. Case No.119 of 2022 arising out of G.R. Case No.56 of 2022(A) pending in the file of learned J.M.F.C., Daspalla on the ground that another accused, namely, Ranjan Kumar Sahoo was acquitted of the charge under Section 302 IPC in S.T. Case No.02 of 2010 by a judgment dated 23rd February, 2012 passed by the learned Sessions Judge, Nayagarh.

3. Learned counsel for the petitioner submits that after a full-fledged trial, the other accused was acquitted of the charge under Section 302 read with 34 of IPC in S.T. Case No.02 of 2010 which is with reference to the evidence of the materials witnesses, copies of whose depositions are at Annexure-3. It is submitted that none of

the witnesses lead any such adverse evidence. In fact, according to the learned counsel for the petitioner on the strength of evidence such witnesses though they were not hostile, since there is acquittal vis-à-vis co-accused, no purpose would be served in continuance of the criminal proceeding against the petitioner. In other words, learned counsel for the petitioner considering the evidence on record in S.T. No.02 of 2010, the criminal proceeding which is pending against the petitioner in S.T. No.119 of 2022 should be quashed, which is objected to by learned counsel for the State on the ground that one cannot anticipate the nature of evidence which might be received during the trial corresponding to G.R. Case No.56 of 2006(A) which is lying in the file of learned J.M.F.C., Daspalla pending commitment to the court of Sessions.

4. Learned counsel for the petitioner submits that in the meantime, the case has been committed to the Sessions court and as per his instruction, no charge has yet been framed.

5. The Court perused the depositions of the prosecution witnesses in S.T. No.02 of 2010. On a reading of the depositions, the Court finds that there is no direct evidence to implicate any of the accused persons including from the material witnesses, namely, the mother and brother of the deceased referring to which learned counsel for the petitioner submits that it is a fit case where inherent jurisdiction should be exercised to quash the criminal proceeding which is unlikely yield any result.

6. However having regard to the nature of allegations and the charge under Section 302 IPC read with Section 34 IPC, the Court is of the view that the petitioner should face the trial with the prosecution evidence on record at least ensuring examination of the materials witnesses, namely, the informant and others of the family of the deceased. In other words, the Court is of the opinion that the petitioner should be granted liberty to renew the prayer after

receipt of evidence by the Sessions court on examination of the material witnesses which would rather serve the purpose and meet the end of justice. Accordingly, it is ordered.

7. In the result, the CRLMC stands disposed of with liberty in favour of the petitioner to renew the prayer challenging the criminal proceeding in future after examination of material witnesses in S.T. Case No.2 of 2010 corresponding to G.R. Case No.56 of 2006(A) pending in the file of learned Sessions Judge, Nayagarh.

8. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

