

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2695 of 2022

Bikash Chandra Nayak and others

....

Petitioners

Mr. B.K. Raj, Advocate

-Versus-

State of Orissa

....

Opposite Party

Mr. Sidharth Shankar Mohapatra, ASC, OP No.1

Mr. Ranjit Mohanty, Advocate for OP No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
31.10.2022

Order No.

- 03.
1. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel appearing for opposite party No.2.
 2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners for quashing of the criminal proceeding in G.R. Case No.148 of 2019 arising out of Banki P.S. Case No.115 of 2019 pending in the court of learned S.D.J.M., Banki on the grounds stated therein.
 3. Perused the copy of the FIR at Annexure-2 and copy of the order sheet at Annexure-1.
 4. Learned counsel for the petitioners submits that there has been a compromise between the petitioners and opposite party No.2 and considering the aforesaid development, since there is a bleak chance of conviction at the end, the proceeding pending

before the learned court below in G.R. Case No.148 of 2019 may be quashed in the interest of justice. While claiming so, an affidavit is filed by opposite party No.2 which is at Flag-B is referred to by the learned counsel for the petitioners.

5. Learned counsel for opposite party No.2 submits that the matter has been compromised and he referred to said affidavit of opposite party No.2 dated 21st September, 2022. Learned counsel for the petitioners as well as learned counsel for opposite party No.2 submits that in view of the settlement reached at between the parties and as none of the petitioners has any criminal antecedent and that apart, no one received any injury and when the informant declined for medical examination post occurrence, the criminal proceeding which has been initiated against the petitioners should be terminated in view of the compromise which is strongly objected to by Mr. Mohapatra, learned counsel for the State and he submits that the petitioners have been named in the FIR and alleged mischief was committed by them and since the incident arose out of a political rivalry, inherent jurisdiction under Section 482 Cr.P.C. should not be exercised in view of the law laid down by the Apex Court to the effect that for such kind of incidents, power under Section 482 Cr.P.C. cannot be invoked.

6. Pursuant to the direction of the Court, the case diary is produced in Court. It is revealed therefrom that the informant has not received any injury rather he declined to undergo medical examination. It is also ascertained from the case diary that there is no criminal antecedents vis-à-vis the petitioners. However, from the FIR, a copy of which is at Annexure-2, the Court finds that the petitioners reached at the spot and someone fired gun shots. It is also made to suggest that one of the accused persons tried to escape but was caught by the village people at the spot itself and under the above circumstances, the alleged mischief has been committed and

irrespective of the fact that no injury has been received and even when there has been compromise between the parties, it is not a fit case to exercise inherent jurisdiction under Section 482 Cr.P.C. The law is well settled if an offence is committed against the society, in that case, jurisdiction under Section 482 Cr.P.C. should not be exercised at all.

7. Having considered the materials on record and submissions of the learned counsel appearing for the parties, the Court is of the view that the nature of incident and the circumstances under which the FIR has been lodged, the Court should not exercise inherent jurisdiction to quash the criminal proceeding which is also not in the interest of justice. However, petitioners are at liberty to raise any such ground at the time of framing of charge.

8. Learned counsel for the petitioners submits that in the meantime chargesheet is filed but charge has not been framed against the petitioners.

9. In view of the above submission, this Court disposes of the CRLMC with liberty to the petitioners to raise such grounds as are available to them in law at the time of framing of charge by filling an application under Section 227 Cr.P.C., and in such an event, court below shall do well to pass appropriate order as per and in accordance with law.

(R.K. Pattanaik)
Judge