

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2773 of 2022

Sumitra Behera & Another

.... Petitioners
Mr. Dillip Ray, Advocate

-Versus-

State of Odisha & Another

.... Opposite Parties
Mr. P.K.Rout, AGA

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
30.09.2022

Order No.

01. 1. Heard Mr. Ray, learned counsel for the petitioners, Mr. Rout, learned for the State.
2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioners with a prayer to direct the learned court below to allow the petitioners dispensing with their attendance in complaint case in I.C.C. No. 35 of 2021 in terms of Section 205 Cr.P.C. on the grounds *inter alia* that a false complaint is filed whereupon the impugned order under Anneuxre-4 was passed by taking cognizance of an offence under Section 307 IPC and other offences as well.
3. It is submitted that an application under Section 205 of Cr.P.C. is filed by the petitioners who are related as mother and son which is still pending disposal before the learned JMFC, Basudevpur.

4. It is claimed that with false allegations, the complaint was filed and that apart, the dispute between parties is civil in nature which is with regard to obstruction as to a passage allegedly claimed by the complainant and considering the same, the application for exemption under Section 205 Cr.P.C. should have been allowed but then, it is yet to be considered and decided.

5. Mr. Rout, learned AGA submits that considering the facts alleged in the complaint, the learned court below has taken cognizance of the offences including under Section 307 IPC and the appearance was directed and in that respect, since time was prayed for, the same was not entertained and then, rightly NBWAs were issued which is as per and in accordance with law.

6. At this juncture, learned counsel for the petitioners submits that since petitioner No.2 is a college student and petitioner No.1 to be his mother and having regard to the nature of allegations and the fact that the complaint was registered at the instance of the other side for which a counter F.I.R. was lodged by petitioner No.1, a copy of which is at Annexure-1, direction should at least be issued for their surrender and to go on bail subject to any conditions.

7. Having regard to the above facts and submissions of the learned counsel for the petitioners and taking into account the nature of allegations made in the complaint and lodging of the counter F.I.R. from the side of the petitioners, the Court is of the view that the petitioners should be directed to surrender and released on bail subject to conditions.

8. Accordingly, it is ordered.

9. In the result, CRLMC stands disposed of with a direction to the petitioners to surrender before the learned court of JMFC, Basudevpur on or before 21st October, 2022 in connection with I.C.C. Case No. 35 of 2021 and in the event of their surrender, the court shall release them on bail subject to conditions.

10. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

I.A. No. 2174 of 2022

02.

It is further directed by the Court that till the petitioners surrender before the learned court below, there shall be no coercive action taken against them pursuant to the issuance of NBWAs in I.C.C. Case No. 35 of 2021.

(R.K. Pattanaik)
Judge