

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2789 of 2022

Gopinath Routray

.... Petitioner
Mr. A.K. Jena, Advocate

-Versus-

State of Odisha

.... Opposite Party
Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
29.11.2022

Order
No.
01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashing of the criminal proceeding in G.R. Case No.672 of 2013(A) arising out of Jatni P.S. Case No.247 of 2013 pending in the file of learned J.M.F.C., Jatni on the ground that the co-accused faced trial and has been acquitted for the charges by a judgment dated 28th August, 2015 in C.T. Case No.197 of 2014.
3. Learned counsel for the petitioner submits that there is no iota of any evidence vis-à-vis the petitioner with regard to the alleged incident and entire case is based on suspicion and in the meantime, another accused faced the trial in C.T. No.197 of 2014 and was acquitted of the charges levelled against him after a full-fledged trial in C.T. No.197 of 2014 and considering the same, no fruitful purpose would be served to subject the petitioner to a full blown trial by looking at the nature of evidence which has been

received from the side of the prosecution but it is strongly objected to by Mr. Praharaj, learned counsel for the State on the ground that the petitioner was found at the spot and received injuries during the incident which is evident from the judgment itself, a copy of which is at Annexure-1.

4. The judgment in C.T. No.197 of 2014 is perused by the Court. A copy of the FIR is at Annexure-2 and the same is also perused. In fact, after report was lodged, Jatni P.S. Case No.247 of 2013 was registered under Section 120(B) read with 34 IPC and Sections 3 and 4 of the Explosive Substance Act besides Section 9(b) of I.E. Act and thereafter, the petitioner was chargesheeted along with others. In the meantime, as mentioned earlier, one of the accused faced trial and stood acquitted of the charges in C.T. No.197 of 2014 by the judgment of the learned Additional Sessions Judge, Bhubaneswar dated 28th August, 2015 basing upon which the petitioner claims quashing of the criminal proceeding against him. The Court perused the evidence received in the said trial by the learned Sessions court. Even though there has been evidence received from the prosecution, it could not establish the charges against the accused therein which resulted in the acquittal by the judgment under Annexure-1. Having regard to the nature of allegations, this Court is of the view that simply by referring to an acquittal judgment under Annexure-1, the criminal proceeding against the petitioner cannot be quashed. The involvement of the other accused and petitioner shall have to be examined on receiving the evidence from the prosecution in the split up trial.

5. At this juncture, learned counsel for the petitioner submits that since non-bailable warrant of arrest is pending execution against the petitioner, he may be directed to surrender and apply for regular bail.

6. Considering the above limited prayer, as the Court is not inclined to quash the criminal proceeding, the Court is of the view that the CRLMC should be disposed of with a direction to the petitioner to surrender before the court of learned J.M.F.C., Jatni in connection with Jatni P.S. Case No.247 of 2013 corresponding to G.R. Case No.672 of 2013(A) on or before 16th December, 2022 and apply for bail.

7. Accordingly, it is ordered.

8. In the result, the CRLMC is disposed of with a direction to the petitioner to surrender on or before 20th December, 2022 in connection with G.R. Case No.672 of 2013(A) pending before the court of learned J.M.F.C., Jatni corresponding to Jatni P.S. Case No.247 of 2013 and in the event he surrenders within the stipulated time and applies for bail, the same shall be considered by the court on its merit and pass appropriate order during the 1st hour and in case the same is rejected, he shall have the liberty to approach the higher forum during 2nd hour and renew the prayer for bail and on being so moved, the learned Sessions court shall do well to pass appropriate order in course of the day as per and in accordance with law.

9. The lower court record shall be made available to the learned Sessions court at the time of hearing of the bail application during the 2nd hour at the cost which shall be borne by the petitioner.

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

(R.K. Pattanaik)
Judge

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