

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1584 of 2020

Jagdish Harijan @ Debiri

....

Petitioner

Mr. Suryakanta Dwibedi, Advocate

-Versus-

State of Orissa

....

Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

13.12.2022

Order No.

07.

1. Heard learned counsel for the respective parties.
2. Instant petition under Section 482 Cr.P.C. is against the petitioner for quashing of the criminal proceeding in G.R. Case No.938 of 2014(A) arising out of Kodinga P.S. Case No.147 of 2014 pending in the file of learned S.D.J.M., Nabarangpur on the ground that the co-accused persons have been acquitted of the charge under Section 394 IPC vide judgment dated 20th May, 2016 passed in C.T. Case No.23 of 2015 by the learned CJM-cum-Assistant Sessions Judge, Nabarangpur.
3. Perused a copy of the judgment dated 20th May, 2016 passed by the learned CJM-cum-Assistant Sessions Judge, Nabarangpur in C.T. Case No.23 of 2015 is perused.
4. Learned counsel for the petitioner submits that the other co-accused persons stood acquitted of charge under Section 394 IPC after a full-fledged trial by judgment dated 20th May, 2016 passed in C.T. Case No.23 of 2015 and so far as the petitioner is concerned, criminal proceeding is currently pending before the learned court

below in G.R. Case No.938 of 2014(A) and it should be quashed in the interest of justice as no fruitful purpose would be served to direct him to face the trial.

5. Mr. Praharaj, learned Standing Counsel for the State submits that the petitioner has to face the trial independently irrespective of the order of acquittal in C.T. Case No.23 of 2015.

6. The Court perused the judgment in C.T. Case No.23 of 2015 under Annexure-1. It is submitted that after full-fledged trial, learned court below acquitted the co-accused persons. It is claimed that since the evidence of the prosecution was disbelieved by the learned Sessions Judge in the said trial and petitioner has been implicated on the confessional statement of the co-accused persons, no purpose would be served to direct him to face the trial. The Court is not inclined to accept the contention of the learned counsel for the petitioner notwithstanding the order of acquittal dated 20th May, 2016 in C.T. Case No.23 of 2015. In fact the prosecution led the evidence however the same was disbelieved by the learned Sessions Judge. It cannot be a ground or basis to discharge the petitioner and quash the criminal proceeding pending against him. In other words, the Court is of the conclusion that the petitioner shall have to face the trial independently after commitment in G.R. Case No.938 of 2014(A) pending before the learned S.D.J.M., Nabarangpur.

7. At this juncture, learned counsel for the petitioner submits that since the court is not inclined to quash the criminal proceeding in C.T. Case No.23 of 2015 considering the fact that the incident is of the year 2014, in the meantime 8 years have gone by, the petitioner should at least be directed to surrender before the learned court below and released on bail, which is not seriously objected to by the learned counsel for the State.

8. Having regard to the facts and circumstances of the case and submissions of the learned counsel for the parties and that the

alleged occurrence is almost 8 years old and in view of the fact that co-accused persons have been acquitted by a judgment of the year 2016, the Court is of the view that petitioner should be directed to surrender and face the trial after commitment.

9. Accordingly, it is ordered.

10. Consequently, the CRLMC stands dismissed. However, the petitioner is directed to surrender before the learned S.D.J.M., Nabarangpur on or before 23rd December, 2022 in G.R. Case No.938 of 2014(A) arising out of Kodinga P.S. Case No.147 of 2014 and in the event he surrenders, the court below shall release him on bail with conditions as deem fit and proper.

11. Issue urgent certified copy of this order on proper application.

(R.K. Pattanaik)
Judge

U.K.Sahoo

