

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2815 of 2022

Md. Shah Alam and others Petitioners

Mr. Pabitra Kumar Nayak, Advocate

-Versus-

State of Odisha Opposite Party
Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
18.10.2022

Order No.

01.

1. Heard learned counsel for the petitioners and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners challenging the order of cognizance dated 6th August, 2021 passed by the learned S.D.J.M., Panposh, Rourkela in G.R. Case No.2137 of 2020 in connection with Plantsite P.S. Case No.409 of 2020 on the grounds stated therein.
3. Learned counsel for the petitioners submits that the contentions in the FIR revealed that the dispute vis-a-vis construction of a house on the 2nd floor and in that connection, the alleged incident took place and so far as the deceased is concerned, he fell down from the stair and received injuries, later to which, succumbed to it. It is submitted that the cause of death as revealed

from the postmortem report is stated to be on account of shock following multi-organ failure and heart attack and considering the same, the allegation so made in the FIR proved to be false and therefore, on such ground, the criminal proceeding should be quashed in the interest of justice.

4. Mr. Praharaj, learned Standing Counsel for the State submits that on the above ground, the criminal proceeding should not be quashed, inasmuch as, the allegations contained in the FIR do reveal a prima facie case against the petitioner and others.

5. The Court perused the FIR as at Annexure-1. The circumstances under which the alleged occurrence took stand described in Annexure-1. It is alleged by the informant that the petitioner and others have assaulted her husband, as a result of which, the victim died. In the meantime, the investigation stands concluded and chargesheet, a copy of which is at Annexure-2 series, has been filed against the petitioner under Section 302 IPC and other allied offences.

6. Considering the materials on record, the Court is of the view that the ground upon which the criminal proceeding is sought to be quashed cannot be examined at present as the same is required to be examined during trial. In other words, the court is of the view that accepting the contents of the FIR, since there are several other disputes pending between the parties notwithstanding the fact that the deceased died due to heart attack, all such aspects cannot be gone into at present. So to say, the Court is of the view that the impugned order passed by the court below cannot be quashed.

7. Having regard to the above submissions, this Court though not inclined to quash the order of cognizance dated 6th August, 2021 passed by the learned S.D.J.M., Panposh, Rourkela in G.R. Case No.2137 of 2020 in connection with Plantsite P.S. Case No.409 of 2020 under Annexure-3 directs that the petitioners shall surrender before the learned court below on or before 4th November, 2022 in the above case and in such event, they shall be released on bail subject to conditions as would be deemed fit and proper in the facts and circumstances of the case.

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

(R.K. Pattanaik)
Judge

U.K.Sahoo

