

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2925 of 2022

Tirthabasini Behera

....
Mr. Jyotirmaya Sahoo, Advocate

Petitioner

-Versus-

State of Odisha

....
Mr. Tapas Kumar Praharaj, SC

Opposite Party

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
05.12.2022

Order No.

04.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. In the instant case, the petitioner has challenged the order of cognizance dated 7th September, 2018 passed by the learned N.G.N-cum-J.M.F.C., Tangi in G.R. Case No.161 of 2018 arising out of Tangi P.S. Case No.125 of 2018 on the grounds stated therein.
3. Mr. Jyotirmaya Sahoo, learned counsel for the petitioner refers to a copy of the judgment as at Anneuxre-2 which is with regard to a trial in respect of the accused mother-in-law in S.T. Case No.107 of 2018 by 2nd Additional Sessions Judge, Khurda, wherein, she was acquitted of all the charges and it is contended that since the case has not been proved against the said accused, the criminal proceeding vis-à-vis the petitioner should be quashed since no fruitful purpose would be served to direct her to face the trial with the nature of evidence already received, which is objected to by Mr.

Praharaj, learned Standing Counsel on the ground that she is required to face the trial independently irrespective of the acquittal judgment under Annexure-2.

4. The Court perused the judgment in S.T. Case No.107 of 2018. The prosecution produced evidence in support of its case and after considering the same, the learned Sessions Court delivered the judgment and acquitted the accused mother. It has been a contested disposal before the learned Sessions Judge. Having regard to the nature and gravity of the offences notwithstanding acquittal of one of the accused persons after facing a full-pledged trial, which of course decided on contest, the Court is of the view that the criminal proceeding vis-à-vis the petitioner should not be quashed. In other words, the accused has to face the trial and cannot be exonerated from the charges and discharged on such ground in exercise of inherent jurisdiction under Section 482 Cr.P.C.

5. At this juncture, Mr.Sahoo, learned counsel for the petitioner submits that since the allegation is omnibus in nature and in the meantime, the another accused is acquitted of all charges and as the Court is not inclined to quash the proceeding against her, the petitioner should be directed to surrender and released on bail on any terms and conditions, which is also objected to by Mr.Praharaj, learned counsel for the State.

6. However considering the limited prayer and having regard to the acquittal of one of the accused, which is revealed from Annexure-2 and the fact that the allegation in the FIR (Annexure-1) to be omnibus in nature, the Court is of the view that though the petitioner is to face the trial but before that she should be directed to surrender before the learned Magistrate and released on bail.

7. Accordingly it is ordered.

8. Consequently, the petitioner is directed to surrender before the learned N.G.N-cum-J.M.F.C., Tangi on or before 22nd December, 2022 in connection with G.R. Case No.161 of 2018 arising out of Tangi P.S. Case No.125 of 2018 and in the event she surrenders, the court below shall release her on bail subject to conditions.

9. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

