

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2961 of 2022

S. Dayanidhi Reddy @ Daya Reddy
and Others

....

Petitioners

Mr. J. Sahoo, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. T.K. Praharaj, SC

Mr. K.C. Behera, Advocate for injured victims

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

02.12.2022

Order
No.

01.

1. Heard learned counsel for the petitioners, learned counsel for the opposite party State and learned counsel for the injured victims.

2. Instant petition under Section 482 Cr.P.C. is at the behest of the petitioners for quashing of the impugned order of cognizance dated 7th August, 2003 passed in G.R. Case No.226 of 2002 and the entire proceeding pending in the file of learned J.M.F.C., Khallikote on the grounds stated therein.

3. A copy of the impugned order is at Annexure-1 and the same is perused by the Court whereby the learned court below has taken cognizance of offence under Section 307 IPC and other allied offences besides Section 3 of the Explosive Substances Act against the petitioner.

4. Mr. Sahoo, learned counsel for the petitioners submits that two of the accused persons chargesheeted in connection with G.R. Case No.226 of 2002 faced trial in S.T. No.05 of 2007 (Sessions Trial No.86/2006-GDC) and the learned Assistant Sessions Judge, Chatrapur by judgment dated 16th September, 2015 acquitted them of charges and it was based on hostile evidence and while claiming so, he refers to a copy of the said judgment and nature of evidence received from the prosecution. It is contended that since the evidence was entirely hostile and for that two of the accused persons chargesheeted stood acquitted of the charges in S.T. No.05 of 2007, no fruitful purpose would be served to subject in the petitioners to a full-fledged trial as it is most unlikely to result in conviction and therefore, under the above circumstances, the criminal proceeding pending against the petitioner in G.R. Case No.226 of 2002 should be quashed in exercise of the Court's extraordinary jurisdiction under Section 482 Cr.P.C.

5. In fact, the witnesses, namely, the P.Ws.2 & 7 in S.T. No.05 of 2007 filed affidavits in the Court today indicating therein about the amicable settlement reached at between the parties. The said affidavits have been filed by the injured victims along with copies of the Aadhar cards in support of their identity proof. Mr. K.C. Behera, learned counsel has entered appearance for the said victims by filing Vakalatnama which is taken on record.

6. Both the injured, namely, P.Ws.2 & 7 pursuant to the direction of this Court are physically present today. On being asked, both of them claimed about having not received any injury during and in course of the alleged incident.

7. The petitioners are also physically present in Court today. It is claimed by Mr. Sahoo, learned counsel for the petitioners that there has been a compromise and settlement between the parties in the meantime. That apart, the contention is that as the chargesheeted accused persons have been acquitted due to lack of evidence, the criminal proceeding against the petitioners should be quashed in the interest of justice.

8. The original Aadhar cards of P.Ws.2 & 7 who appeared and examined as witnesses in S.T. No.05 of 2007 have produced original Aadhar cards in support of their identification.

9. Mr. Praharaj, learned counsel for the State however opposes quashing of the proceeding on the ground that offences are non-compoundable in nature and besides that the allegations are grievous in nature as there were bomb explosions during the incident causing the injuries to P.Ws.2 & 7.

10. Having regard to the above facts, presence of the parties, considering the submissions of the learned counsel for the petitioners, State and injured victims and keeping in view the legal position as enunciated by the Apex Court in **B.S. Joshi and others Vrs. State of Haryana and another (2003) 4 SCC 675** and regard being had to the compromise and settlement which has been reached at between the parties, the Court is of the view that no worthy purpose would be served to direct the petitioners to face a full blown trial specially when the prosecution evidence has been entirely hostile in S.T. No.5 of 2007. On a bare reading of the

judgment dated 16th September, 2015, it is made to appear that none of the witnesses including P.Ws.2 & 7, the injured victims, who are physically present in Court today, supported the prosecution case. Most of them have been declared hostile and examined in terms of Section 154 of the Indian Evidence Act. In such view of the matter and nature of evidence received during the trial in respect of two accused persons which is hostile, the Court is of the conclusion that notwithstanding the offences to be non-compoundable in nature but in the light and spirit of the judgment in **B.S. Joshi** (supra), where it has been held and observed that the criminal proceedings may be quashed in exercise of inherent jurisdiction under Section 482 Cr.P.C. even when the offences are non-compoundable, the criminal proceeding pending before the court of learned J.M.F.C., Khallikote in connection with G.R. Case No.226 of 2002 should be quashed in the interest of justice.

11. Accordingly, it is ordered.

12. In the result, the CRLMC stands allowed. As a necessary corollary, the criminal proceeding in G.R. Case No.226 of 2002 pending before the court of learned J.M.F.C., Khallikote is hereby quashed.

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

(R.K. Pattanaik)
Judge