

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3146 of 2022

Umakanta Tandi

.... Petitioner

Mr. P.K.Das, Advocate

-Versus-

State of Odisha

.... Opposite Parties

Mr. Rajesh Ku.Tripathy, ASC

CORAM:
JUSTICE R.K.PATTANAİK

ORDER
01.11.2022

Order No.

- 02.
1. Heard learned counsel for the petitioner and Mr. Tripathy, learned counsel for the State-opposite party No.1
 2. The challenge is as to the criminal proceeding initiated at the behest of the opposite party No.2 which is currently pending before the court of learned JMFC, Muribahal, Bolangir in connection with G.R. Case No. 85 of 2019 arising out of Muribahal P.S. Case No. 213 of 2019 on the grounds stated therein.
 3. Learned counsel for the petitioner referring to a copy of the F.I.R. as at Annexure-1 submits that petitioner to be the uncle-in-law of the victim, namely, opposite party No. 2 and alleged incident could not have happened as has been claimed by the victim considering the materials on record which suggest that a nurse was attending her at the relevant point of time as both had been to hospital for treatment of son of opposite party No.2. While claiming so, learned counsel for the petitioner refers to the statement of a witness recorded under Section 161 Cr.P.C. Mr. Tripathy, learned

counsel for the State, however, submits that such a ground can only be considered during trial before the Sessions court.

4. Having regard to the submissions of the learned counsel for the respective parties and considering the allegations in the F.I.R. and other materials under Annexure-1 series, the Court finds that opposite party No.2 had been to the hospital for treatment of her son along with the petitioner, who happens to be her uncle-in-law and the hospital where the incident happened as appears to have been revealed by her to her husband whose statement has been recorded under Section 161 Cr.P.C.

5. Considering the above facts, the Court is not inclined to accede to the request for quashing of the criminal proceeding. In other words, it is not a fit case where inherent jurisdiction under Section 482 Cr.P.C. should be exercised. However, in course of hearing, the learned counsel for the petitioner submits that the petitioner may be directed should be directed to surrender and apply for bail before the court below.

6. Considering the above facts, CRLMC stands disposed of with a direction to the petitioner to surrender before the court of learned JMFC, Muribahal, Bolangir on or before 18th November, 2022 in connection with G.R. Case No. 85 of 2019 arising out of Muribahal P.S. Case No. 213 of 2019 and in the event of his surrender and after he applies for bail, the same shall be considered and appropriate order to be passed by court and in the event of rejection, he shall have liberty to approach the higher forum on the same day and if so approached, the Sessions court shall consider his prayer for bail on merit and pass orders thereon.

(R.K.Pattanaik)
Judge

