

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2037 of 2021

Prakash Ku. Patra

....

Petitioner

Mr. D.P. Dhal, Senior Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
28.03.2022

Order No.

06.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners and the learned State counsel.
3. This CRLMC has been filed under Section 482 of the Cr.P.C. assailing the order of cognizance dated 06.06.2020 passed by the learned J.M.F.C., Soro in C.T. Case No.1188 of 2019, arising out of Khaira P.S. Case No.261 of 2019 whereby the learned Magistrate has taken cognizance of the offences under Sections 498(A)/304(B)/34 of IPC and read with Section 4 of the D.P. Act. Petitioner is the husband of the deceased.

4. Referring to the Post-Mortem Report more particularly the cause of death which is extracted hereinunder:-

“Cause of death- shock due to haemorrhage following ruptured Ectopic pregnancy purely a medical disease.”

5. The learned counsel for the petitioner states that even if the entire case of the prosecution is accepted at the face value, no case under Section 304-B of IPC as stated in the charge sheet is made out against the petitioner who, is the husband.

6. It is also contended by the learned counsel for the petitioner that on a bare perusal of the postmortem report, it is clear that there are no external injuries as such there is no complicity of the petitioner vis-à-vis the Sections under Which charge sheet has been filed.

7. Having carefully considered the submission of the learned counsel for the petitioner and examining the matter on the touchstone of the judgments of the Apex Court in the case of ***State of Haryana and Others vs. Bhajan Lal and others*** reported in ***1992 Supp. (1) SCC 335***, defining the contour of exercise of jurisdiction of this Court at the time of evaluating an order of cognizance, the CRLMC stands disposed of giving liberty to the petitioner to raise all the issues canvassed in the CRLMC at the appropriate stage, if so advised.

8. With such observations, the CRLMC stands disposed of.
9. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Santoshi

