

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1711 of 2020

Sanjukta Dash

....

Petitioner

Mr. S.K.Sarangi, Senior Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Mr. S.S.Mohapatra, ASC

Mr. Ashok Ku.Swain, Advocate for O.P.

CORAM:
JUSTICE R.K.PATTANAIK

ORDER
26.10.2022

Order No.

08.

1. Heard Mr. Sarangi, learned Senior Advocate for the petitioner, learned counsel for the State as well as learned counsel for opposite party No.2, namely, the informant.

2. Instant petition under Section 482 of Cr.P.C. is filed for quashing of the order of cognizance under Annexure-6 passed in T.R. No. 454 of 2019 by the learned District & Sessions Judge, Khurda at Bhubaneswar arising out of Laxmi Sagar P.S. Case No. 246 dated 06th September, 2019 on the grounds stated therein.

3. Mr. Sarangi, learned Senior Advocate for the petitioner submits that for the self-same incident, the petitioner lodged an F.I.R., a copy of which is at Annexure-5 and in respect of the property in dispute, a civil suit is pending before the learned Civil Judge (SD) in C.S. No. 948 of 2011 between the parties who are related to each other. It is further submitted that in the respect of the matter in dispute, a proceeding under Section 144(2) Cr.P.C. was also initiated and therein, a status quo order was passed. It is

contended that the incident happened inside a house and not within the public view and therefore, the learned court below could not have taken cognizance of the offences under the SC&ST(PA) Act.

4. Learned counsel for opposite party No.2 submits that for the same incident F.I.R. and counter F.I.R. have been lodged by the parties and it has taken place inside the alleged house at a time when some construction work was in progress.

5. Mr. Mohapatra, learned counsel for the State submits that the alleged overt act which has been committed by the petitioner was within the view of some outsiders present at the time of construction, hence, the learned court below did not err or commit any illegality in taking cognizance of offences under the SC&ST(PoA) Act.

6. Perused the copy of the F.I.R. which is at Annexure-1. In fact, on the report being lodged by opposite party No. 2, Laxmi Sagar P.S. Case No. 246 of 2019 was registered under the SC&ST(PoA) Act and other IPC offences. As per the allegation of opposite party No.2, she was abused by the petitioner and aspersion was made as regards her caste at the time when the construction work was underway inside the house.

7. Mr. Sarangi, learned counsel for the petitioner submits that since the incident has happened inside a house and not within the public view, therefore, the offences under SC&ST(PoA) Act cannot be made out and to that extent, the impugned order under Anneuxre-6 is required to be quashed which is objected to by the learned counsel for opposite party No,2.

8. Considering the above submissions and the facts and circumstances of the case and taking into account the allegations

made in the F.I.R. (Annexure-1) which is to the effect that the petitioner did the mischief and committed the overt acts alleged and abused opposite party No.2, the Court is not inclined to interfere with the order of cognizance but in so far as the other offences under the SC&ST(PoA) Act are concerned, since the incident has taken place inside the house and apparently beyond the public view, the same shall have to be interfered with and set aside.

9. Accordingly, it is ordered.

10. The CRLMC stands partly allowed. Consequently, the impugned order under Annexure-6 in T.R. No. 452 of 2019 by the learned Sessions Judge, Khurda, Bhubaneswar is hereby modified to the extent that it shall stand only in respect of other offence(s) excluding the offences under SC&ST(PoA) Act.

11. However it is held that the petitioner shall have the liberty to raise all such other grounds at the time of framing of charge and if so moved, the court below shall consider the same vis-à-vis her discharge and pass appropriate orders as per and in accordance with law.

(R.K.Pattanaik)
Judge