

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3269 of 2022

Gunanidhi Durga

Petitioner

Mr. M. Chand, Advocate

-Versus-

State of Odisha and Another

....

Opposite Parties

Mr. S. Mishra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

14.11.2022

Order
No.

01.

1. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.

2. Prayer in the present petition is for quashing of the order of cognizance dated 4th May, 2021 and issuance of NBWA by the learned J.M.F.C., Jaipatna in connection with C.T. Case No.61 of 2021 on the grounds stated therein.

3. A copy of the FIR is at Annexure-1 and the same is perused by the Court.

4. The informant, namely, opposite party No.2 lodged the report consequent upon which Jaipatna P.S. Case No.62 dated 6th March, 2021 was registered under Section 376(2)(n) IPC and other allied offences and on completion of investigation, chargesheet was filed against the petitioner and others.

5. Mr. Chand, learned counsel for the petitioner submits that the petitioner is a Govt. servant and in so far as the allegation contained in the FIR is concerned, they are false and that apart, it is

clearly evident from the FIR that the informant opposite party No.2 remained in the company of the petitioner for quite a long time and also had a marriage alleged to have been solemnized between them in the month of February, 2021 and under the above circumstances, no case of rape is prima facie made out against the petitioner who, however, has been implicated and stands chargesheeted for the said offence and other accused persons including other family members and hence for the said reason, the order of cognizance under Annexure-3 is bad in law. Mr. Mishra, learned counsel for the State on the other hand submits that having regard to the nature of allegation made in the FIR i.e. Annexure-1 and for the fact that the petitioner has been chargesheeted for the offence of rape under Section 376(2)(n) IPC and other accused persons have also been chargesheeted for having played their role in the kidnapping of the informant, the learned court below has not committed any error or wrong in taking cognizance of the said offence as per Annexure-2 and hence, it calls for no interference.

6. In course of hearing, Mr. Chand, learned counsel for the petitioner instead of pressing the matter on merit submits that at least the petitioner in view of the nature of allegation contained in the FIR, should be directed to surrender before the learned court below, as in the meantime, post submission of chargesheet, NBWA was issued against him in connection with C.T. Case No.61 of 2021.

7. Considering the limited prayer so made, CRLMC stands disposed of with a direction to the petitioner to surrender before the learned J.M.F.C., Jaipatna on or before 30th November, 2022 in connection with C.T. Case No.61 of 2021 arising out of Jaipatna P.S. Case No.62 of 2021 and in the event, he surrenders within stipulated time, the Court shall release him on bail subject to such

terms and conditions as deemed just and proper in the facts and circumstances of the case.

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

(R.K. Pattanaik)
Judge

TUDU

