

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3376 of 2022

Gouri Gouda

.....

Petitioner

Mr. G.K. Nayak, Adv.

Vs.

1. State of Odisha

2. Mochiram Gouda

.....

Opposite Parties

Mr. J. Katikia, A.G.A.

(For Opp. Party No.1)

CORAM:

JUSTICE SAVITRI RATHO

ORDER

08.12.2022

Order No.

(Through hybrid mode)

01.

1. This application under section 482 of the Code of Criminal Procedure (in short “Cr.P.C”) has been filed by the petitioner for quashing the order dated 22.12.2001 (Annexure 2) passed in G.R. Case No. 239 of 2000 pending in the Court of the learned S.D.J.M., Bhanjanagar (corresponding to Bhanjanagar P.S. Case No. 89 of 2000), taking cognisance of the offences under Section – 341, 323, 294, 307, 506 and 34 of the Indian Penal Code (in short “the IPC”) against the petitioner. Vide the said order cognisance has been taken against co-accused Nakula Gouda, Kuni @ Kanaka Gouda, Nilamadhab Gouda, Rabi Gouda, Tukuna @ Krushna Ch. Gouda and the petitioner.

2. Mr. G.K. Nayak, learned counsel for the petitioner submits that the petitioner and the informant are related to each other and

the case was registered on account of a misunderstanding. The matter has been settled between the parties for which the co-accused who faced trial have been acquitted vide judgment dated 25.02.2020 passed in S.T. No 38 of 2017, which has been annexed as Annexure 3. In view of these developments, no useful purpose will be served if the proceedings are allowed to continue against the petitioner. On the other hand, valuable time and resources of the Court will be wasted if the proceedings against the petitioner are allowed to continue.

3. The allegations in brief as per the FIR which has been annexed as Annexure 1 to the application are that on 09.06.2000 at about 10.00 p.m. while the informant was standing in front of his house, Nakula Gouda, Kuni Gouda and Gouri Gouda assaulted him for which he sustained bleeding injuries on his head and was treated at Bhanjanagar Medical. While he was returning home, Nakula Gouda again assaulted him with a kati. While trying to ward off the blow with his hand, he sustained injury on his hand.

4. Perused Annexure 3, which is the judgment of acquittal passed in S.T. No. 38 of 2017, in respect of the co-accused Rabi Gouda and Tukuna @ Krushna Chandra Gouda in Bhanjanagar P.S. Case No. 89 of 2000.

In the said trial, P.W.1 Mochiram Gouda is the informant-cum- victim. P.W.2 is Trinath Gouda a seizure witness, P.W.3 is Balaram Gouda an independent witness and P.W.4 Panchu Gouda is another seizure witness. P.Ws.1 to 4 are the main witnesses in

the case. They did not support the prosecution case. The learned trial court after examining their evidence has acquitted the accused while holding as follows :

...“6. Examined the evidence on record. After careful scrutinization of the available materials and evidence, it is found that PW-1, Mochiram Gouda is the informant-cum-victim of this case. He is the vital witness of the prosecution case. The entire case of prosecution mainly depends upon his evidence. He deposed in the witness box on oath that due to some mis-understanding between him and the accused persons, the case was instituted against the accused persons. But he stated that now, the matter has already been settled amicably between them in their village in presence of village gentlemen and now both parties are pulling well with each other and are residing peacefully in their locality by forgetting their past bitterness and previous enmity. Although he proved the FIR as Ext-1 and Ext-1/1 is his signature, but he deposed that now he does not remember the contents of the FIR. He testified that, he does not remember the name of the scribe of the FIR.

7. While facing the cross-examination, the informant-cum-victim disclosed that now the matter has already been amicably settled among both the parties in their village in presence of village gentlemen. He deposed that he does not remember the exact date of the occurrence nor can be say the name of the scribe. He disclosed that he does not know the contents of the FIR. On the other hand, defence elicited

from his lips that now he has no grievance against the accused persons and the matter has been resolved as per his free will and consent. Moreover, the informant -cum-victim testified that now he does not want to proceed further in this case against the accused persons and he has absolutely no objection if the accused persons will be acquitted from this case.

8. *On the other hand, the independent prosecution witnesses who has been examined as P.W.3 has stated nothing about the occurrence and shown his complete ignorance towards the same. He has not supported the case of the prosecution in any manner. Further he stated that he has not been examined by the Police in connection with this case. The above independent witness also did not speak anything incriminating against the accused persons nor about anything in support of the alleged prosecution case.*

9. *P.W.2 and P.W.4 are two seizure witnesses. They also do not support the fact of seizure in any manner. They simply testified that as per the instance of the Police, they put their signatures on one paper and they do not know the contents of that paper. The sized articles were not produced in the Court for identification. On their cross-examination they corroborated with the version of the informant and they deposed that both the parties are pulling well with each other and residing peacefully in the village.*

After examining the above materials, it is seen that now the informant-cum-victim is resiling from his earlier

statement and has entered into an amicable settlement voluntarily with the accused persons for the betterment of the society. The aim of our social justice system is to keep the people in the society peacefully. It is seen that both parties have forgotten their past bitterness and the informant-cum-victim has voluntarily consented for the settlement of dispute. The independent prosecution witnesses did not support the prosecution case in any manner. Nothing substantial could be elicited from the lips of any witness so as to bring home the guilt of the accused persons. There is absolutely no evidence available on the record to bridge up the gap between the accused persons with that of the alleged occurrence.

Prosecution declined to examine the rest of the witnesses as there will be no fruitful result by examining them, when the important witness like the informant-cum-victim has not supported the case. Hence, to avoid unnecessary delay in further protraction of trial the memo filed by the prosecution to close the evidence is accepted by the Court.”

5. In view of the nature of the evidence of P.Ws. 1 to 4 which includes P.W.1 Mochiram Gouda the injured informant, I am convinced that no useful purpose will be served by allowing the proceedings against the petitioner to continue and that this is a fit case where it would be in the interest of justice to quash the proceedings against the petitioner in G.R. Case No. 239 of 2000

pending in the Court of the learned S.D.J.M., Bhanjanagar (corresponding to Bhanjanagar P.S. Case No. 89 of 2000).

6. Mr. J. Katikia, learned Addl. Govt. Advocate for the State fairly submits that in the peculiar facts of the case as co-accused persons have been acquitted in view of the evidence adduced by the witnesses, the petitioner and the injured are related to each other and the petitioner is a lady, he can have no objection if the proceedings are quashed.

7. In view of the above discussion and keeping in view the decision of the Supreme Court in the case of *Narinder Singh and others vs. State of Punjab* reported in (2014) 6 SCC 466 and *Gian Singh vs. State of Punjab* reported in (2012) 10 SCC 303, the proceeding against the petitioner in G.R. Case No. 239 of 2000 pending in the Court of the learned S.D.J.M., Bhanjanagar (corresponding to Bhanjanagar P.S. Case No. 89 of 2000) are quashed.

8. The CRLMC is accordingly allowed.
Issue urgent certified copy as per rules.

.....
(SAVITRI RATHO)
JUDGE